MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NONATTAINMENT AREA

COMMITMENTS FOR IMPLEMENTATION VOLUME TWO



CHAPTER TEN

COMMITMENTS FOR IMPLEMENTATION OF THE MAG 2007 FIVE PERCENT PLAN FOR PM-10

This Chapter, contained in an accompanying document, includes resolutions from the MAG member agencies and other implementing entities. The resolutions indicate specific commitments to implement various control strategies. Each jurisdiction determines which measures are feasible for implementation by that jurisdiction. Air quality legislation passed by the Arizona State Legislature is also included.

Generally, the authorities of cities and towns to implement the types of measures that they have committed to in their respective resolutions are provided under A.R.S. § 9-240 Powers of Common Council. The general authorities of the county to implement the measures in the commitments are provided under A.R.S. § 11-251 and A.R.S. § 49-478. Copies of these local and county government authorities are included in the commitments document of the Five Percent Plan.

Specifically, the commitments contain a description of the measure which will be implemented, the implementation schedule, authority of the entity for implementation, the financial resources necessary to put the measure in place, and the monitoring program designed to track implementation. The commitments document also contains the measures which the State, county, and local jurisdictions found not to be feasible and the corresponding rationale. Regulations and ordinances are also included.

It is important to note that all of the commitments received are in addition to the committed measures included in the Revised MAG 1999 Serious Area Particulate Plan for PM-10 and the ADEQ Salt River PM-10 State Implementation Plan Revision. The committed measures in the MAG 2007 Five Percent Plan for PM-10 are new committed measures above and beyond the measures in the prior PM-10 plans. The Five Percent Plan also includes measures from other Serious Areas which EPA may have determined to be Best Available Control Measures.

CITY OF PEORIA

RESOLUTION NO. 07-96

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA TO IMPLEMENT MEASURES IN THE MARICOPA ASSOCIATION OF GOVERNMENTS' 2007 FIVE-PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NON-ATTAINMENT AREA

WHEREAS, the Maricopa Association of Governments ("MAG") has been designated by the Governor of Arizona as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County non-attainment area is classified as a serious area for Particulate Matter ("PM-10"), according to the Clean Air Act; and

WHEREAS, the Five-Percent Plan ("Plan") for PM-10 is required by the Clean Air Act, since the Maricopa County non-attainment area failed to attain the PM-10 standard by December 31, 2006; and

WHEREAS, the Plan is required to reduce PM-10 emissions by five-percent (5%) per year until the standard is met; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA as follows:

SECTION 1. That the Mayor and City Council of the City of Peoria, Maricopa County, Arizona agree to proceed with a good faith effort to implement the measures identified in Exhibit A, which is attached and part of this Resolution.

SECTION 2. That the Mayor and City Council of the City of Peoria, Maricopa County, Arizona commit to implement the measures as scheduled, and with the funding sources identified; however, recognizing that the availability of necessary funding may depend on the funding programs or processes of various State and Federal agencies, the City of Peoria, Arizona agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

Resolution No. 07-96 Page 2 of 2

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona, this 19th day of June, 2007.

Bob Barrett, Mayor

ATTEST:

Mary Jo Kief, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

EXHIBIT A

DESCRIPTION

OF

LOCAL GOVERNMENT

PM-10 MEASURES

ON THE SUGGESTED LIST

Measure: Public education and outreach with assistance from local governments.

(MAG Reference #1)

<u>Measure Description</u>: This measure will involve publicity campaigns that increase public awareness of the PM-10 problem, and discourage citizens from participating in activities that generate airborne dust.

Responsible Agency and Authority for Implementation: The City of Peoria Communication and Public Affairs, Engineering and Police Departments will be the responsible agencies and authority for implementation for Measure 1.

Implementation Schedule: The City of Peoria Police Department currently is providing education and outreach for illegal All Terrain Vehicle use within targeted areas, based on citizen complaints. The Engineering Department will provide brochures, developed by Maricopa County, as a handout for all grading and drainage permits. The Communication and Public Affairs Department will air "Bring Back Blue", and other videos, on public channel 11, which will be done in cooperation with the Maricopa Association of Governments, Maricopa County and the other valley cities.

The airing of "Bring Back Blue" will commence July 2007; the other videos will be aired as developed. The brochures will be handed out beginning this fall.

Level of Personnel and Funding Allocated for Implementation: The City of Peoria Police Department: two Officers for ¼ time, the Communication and Public Affairs Department two Technicians for two hours each per week and the Engineering Department two Technicians and nine Offsite Inspectors for two hours each per week.

Enforcement Program: Not applicable.

<u>Monitoring Program</u>: The various Departments will track the quantities and/or time of the various items mentioned above, and provide a report to Maricopa County.

Measure: Reduce off-road vehicle use in areas with high off-road vehicle activity – Impoundment or confiscation of vehicles for repeat violations.

(MAG Reference #22)

<u>Measure Description</u>: The City of Peoria currently enforces the prevention of off-road vehicle use in PM-10 non-attainment areas.

Responsible Agency and Authority for Implementation: The City of Peoria Police Department is responsible for implementation of Measure 22, as required by City Code 13-25, State Trust Land; A.R.S. 37-501; and Maricopa County owned Land, and other similar government owned lands, City Code 13-1503.

<u>Implementation Schedule</u>: The City of Peoria is currently providing an education program, and issuing citations to individuals, regarding the illegal use of off-road vehicles on private lands and washes. The City of Peoria started the education/enforcement in April 2007.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The current All Terrain Vehicle (ATV) enforcement activity is provided by two Police Officers, and it is anticipated that it will take approximately eight hours per week for enforcement.

<u>Enforcement Program</u>: The City of Peoria started enforcement of the ATV restrictions in Apríl 2007.

<u>Monitoring Program</u>: The City of Peoria will track the number of violators and/or confiscation, based on this program. A summary of the property will be submitted to Maricopa County.

Measure: Sweep streets with PM-10 certified street sweepers.

(MAG Reference #29)

Measure Description: The City of Peoria currently sweeps streets, using the following schedule:

- Designated arterials, residential and high volume collectors ("PM-10 route"): Once every ten calendar days.
- Arterials: Once every three weeks.
- > Residential: Every five weeks
- > The City only has PM-10 certified street sweepers in its inventory

The City of Peoria will research/initiate the requirement for its general contracting (internal maintenance), as well as all construction permits, to require the use of PM-10 certified street sweepers for cleanup of construction sites/tracking.

Responsible Agency and Authority for Implementation: The Public Works Department will be the responsible agency for street sweeping, using PM-10 certified street sweepers on public roads, and initiating the contract changes for City facilities.

The Engineering Department will be responsible for initiating the Grading and Drainage permit requirements for contractors to use only PM-10 certified street sweepers.

<u>Implementation Schedule</u>: The City of Peoria will initiate its own maintenance contract changes of City-owned facilities by July 2007.

The Engineering Department will hold public meetings with private contractors (CIP and private development), to ensure that all construction activities affecting public roadways will use PM-10 certified street sweepers, by January 1, 2008. If this is edict is not attainable for good reason, a revised schedule will be forthcoming.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The Public Works Department has five Sweeper Operators that maintain public right-of-way. For City property maintenance, the Department(s) maintaining the facility will enforce the use of PM-10 certified street sweepers through private contracts. For capital and private development projects, the City of Peoria project managers/inspectors will enforce the use of PM-10 certified street sweepers.

<u>Enforcement Program</u>: For CIP and private projects, permits will not be issued, unless the contractor can confirm that PM-10 certified street sweepers will be used. For maintenance contracts of City-owned facilities, the contract will state that PM-10 certified street sweepers will be the only allowable equipment for parking lot sweeping.

Monitoring Program: On an annual basis, the Public Works Department will provide quantitative reporting of the street sweeping services provided by its PM-10 fleet. The City of Peoria currently has six PM-10 certified street sweepers, and will continue to replace street sweepers with PM-10 certified street sweepers.

The Public Works Department will work with the Finance Department and the Materials Management Division to ensure that responsible City departments maintain parking lots and garages with PM-10 certified street sweepers.

Upon completion of grading and drainage projects for private development, the Engineering Department will conduct that PM-10 certified street sweepers were used during those activities in compliance with the implementation plan described above. This will be researched to determine the availability of PM-10 sweepers in the private sector, so that we can determine when to initiate the changes to the City maintenance and City CIP/private development.

Measure: Pave or stabilize existing unpaved parking lots – strengthen enforcement. (MAG Reference #31)

<u>Measure Description</u>: The City of Peoria will inventory all unpaved parking lots within its jurisdiction. Based on the analysis of the inventory, the City of Peoria will require each property owner to pave or stabilize any unpaved parking lots.

Responsible Agency and Authority for Implementation: The City of Peoria, Engineering Department, along with the Community Development Department (Code Enforcement Division) will be the responsible agencies. Authority for implementation of Measure 31 is City of Peoria Municipal Code 23-76.

Implementation Schedule: The City of Peoria currently has an Ordinance requiring all unpaved parking lots to be paved or stabilized. The City of Peoria will inventory all unpaved parking lots by January 2008. Notification of all property owners of the requirement to pave and/or stabilize the parking lots shall be made by March 2008.

Level of Personnel and Funding Allocated for Implementation: The Community Development Department (Code Enforcement Division) will designate five staff members to inventory, and provide a list of unpaved parking lots within the City of Peoria. The Engineering Department will designate two staff members to write and track notification letters sent to affected property owners. Funding could be required for ongoing monitoring and over time. The monitoring process could require a full time position in both the Engineering Department and the Community Development Department (Code Enforcement Division).

Enforcement Program: The City of Peoria Ordinance 23-77. Violation of 23-76 is a Civil Sanction. Our policy will be that upon notification, the property owner has 60-days to submit an abatement plan to the City Engineer for approval. Upon approval, the property owner will have an additional 60-days to implement the abatement plan. If the property owner does not implement within the allowed time, the City of Peoria has the authority to begin legal procedures to resolve the violations.

<u>Monitoring Program</u>: The Engineering Department will track and maintain a list of all unpaved parking lots by property identification number, owner of record, notification date, approval date and/or code issuance date(s).

Measure: Pave or stabilize existing public dirt roads and alleys.
(MAG Reference #32)

<u>Measure Description</u>: The City of Peoria currently has all its known public roads and alleys paved or stabilized within its jurisdiction. The City of Peoria will inventory, and if necessary, provide data to confirm that all public dirt roads and alleys are now paved to minimum stabilization standards.

Responsible Agency and Authority for Implementation: The Public Works Department is responsible for implementation of Measure 32.

<u>Implementation Schedule</u>: The City of Peoria (Public Works Department) will inventory all public roads within its jurisdiction, and provide a list to the appropriate agency by August 2007. If it is found that there are dirt roads or alleys which need to be paved or stabilized, it will be completed by July 2008.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The Public Works Department will provide two staff members to inventory all existing dirt roads and alleys. If a road or alley requires paving, the City of Peoria will utilize in-house staff or a contractor for paving.

Enforcement Program: Not applicable.

Monitoring Program: The Public Works Department will provide an inventory to ensure all existing public dirt roads and alleys are stabilized to standards or paved. This list will be provided to the appropriate agency for documentation. If a public road or alley is found unpaved, a schedule will be provided to Maricopa County to ensure that the road or alley is paved by July 2008.

Measure 33: Limit speeds to 15 miles per hour on high traffic dirt roads. (MAG Reference #33)

<u>Measure Description</u>: The City of Peoria currently has the ability to request the posting of 15-mile per hour speed limits for all low volume public dirt roads in its Speed Limit Ordinance.

Responsible Agency and Authority for Implementation: The City of Peoria Engineering and Public Works Departments are responsible for implementation of Measure 33, as required by City Code 23-75(e).

Implementation Schedule: The City of Peoria should not have any public dirt roads or alleys. However, through the Public Works Department inventory by August 2007, any unpaved or unstabilized public dirt roads or alleys will be posted. The 15-mile per hour posting will continue until such time as the paving or stabilization is complete.

The Engineering Department will notify the owners of the 15-mile per hour requirement by October 2007, and they should be able to purchase a sign from the City for a nominal fee.

<u>Level of Personnel and Funding Allocated for Implementation</u>: Four staff members from the Public Works Department; two for the inventory and two to install the 15-mile per hour signs.

Enforcement Program: Not applicable.

Monitoring Program: If the City of Peoria finds that there are unpaved public roads or alleys, documentation will be made, and the implementation schedule for installing the 15-mile per hour signs will be made by the Public Works Department, through a work order system. All private roads will be documented by Engineering, and the owners will be notified of the posting of the 15-mile per hour speed limit by October 2007.

Measure: Pave or stabilize unpaved shoulders.

(MAG Reference #35)

<u>Measure Description</u>: This Measure will require the paving or stabilizing of dirt shoulders on paved public roadways that carry more than 2000 vehicles or 50 heavy duty trucks, per average weekday.

Responsible Agency and Authority for Implementation: The City of Peoria, Public Works Department is responsible for the implementation of this measure.

<u>Implementation Schedule</u>: By December 2007, the Public Works Department will inventory all City of Peoria public roads that have unpaved shoulders (no curb and gutter). Based on that inventory, the Public Works Department will initiate a schedule, effective January 2008, to pave or stabilize all unpaved shoulders. This implementation will take approximately six months.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The Public Works Department will provide two staff members to do the inventory, and three to four staff members to do the stabilization.

Enforcement Program: Not applicable.

Monitoring Program: The Public Works Department will provide an inventory of all unpaved shoulders, and provide an implementation schedule for stabilizing the shoulders to Maricopa County.

Measure: Restrict vehicular use and parking on vacant lots.
(MAG Reference #38)

<u>Measure Description</u>: The Community Development Department (Code Enforcement Division) will inventory all vacant lots within the City of Peoria. The inventory will be divided between those that do not have a curb and gutter edge and those that have curb and gutter edge.

Responsible Agency and Authority for Implementation: The Community Development Department (Code Enforcement Division) and the Engineering Department will be responsible for implementation of Measure 38, as required by City Code 23-76.

Implementation Schedule: By January 2008, the Community Development Department (Code Enforcement Division) will provide an inventory of the vacant lots, showing those that are edged with curb and gutter, and those that are not edged with curb and gutter. The Engineering Department will confirm and document ownership, and notify property owners by March 2008 of the requirement to prohibit vehicular use/parking on the vacant lot, with a request to provide an implementation schedule for providing barricades, signage or other barrier that will prohibit the use of the lot for parking. The Engineering Department will review the implementation schedule, and notify the owner that they need to agree to implement the schedule as outlined. If the City of Peoria does not receive a response from the property owner, the owner will be cited by the Community Development Department (Code Enforcement Division) of the violation as a misdemeanor.

Level of Personnel and Funding Allocated for Implementation: The Community Development Department (Code Enforcement Division) will provide five staff members to schedule and assist the Engineering Department in the implementation/enforcement of this issue. This will be an ongoing process that could require funding in the future. It may require a review by both the Engineering Department and the Community Development Department (Code Enforcement Division) to determine if full time positions are needed.

<u>Enforcement Program</u>: The City of Peoria City Code 23-77 requires that vacant lots cannot be used for parking or trespassing.

<u>Monitoring Program</u>: The Engineering Department will document, and provide a copy to Maricopa County, of all vacant lots, property owners, date notified, implementation schedule, completion schedule and/or the court date.

Measure: Enhanced enforcement of trespass ordinances and codes. (MAG Reference #39)

<u>Measure Description</u>: Through the Community Development Department (Code Enforcement Division), the City of Peoria will be proactive and monitor all vacant lots on a monthly basis, to ensure that trespass parking is prohibited.

Responsible Agency and Authority for Implementation: The Community Development Department (Code Enforcement Division) will be responsible for implementation of Measure 39, as required by City Code 23-76.

Implementation Schedule: The enhanced enforcement will be effective January 1, 2008.

Level of Personnel and Funding Allocated for Implementation: The seven Code Enforcement Officers from the Community Development Department (Code Enforcement Division) will be used to implement this, as well as other City employees that would report violators to the Code Enforcement Division.

Enforcement Program: Violation of City Code 23-76 is a Civil Sanction.

<u>Monitoring Program</u>: The City of Peoria will track all violations noted, and report violation status to Maricopa County.

Measure: Non-visible emissions across property line be placed in Maricopa County Rule 310 and 310.01 and in local ordinances for non permitted sources as appropriate. (MAG Reference #45)

<u>Measure Description</u>: This measure will require the City to develop an ordinance or assist Maricopa County through Rule 310 that prohibits dust to cross property lines.

Responsible Agency and Authority Implementation: The City of Peoria Engineering and Community Development Departments will be the responsible agency to develop the ordinance and/or coordinate with Maricopa County.

<u>Implementation Schedule</u>: The City of Peoria Engineering Department will work with Maricopa County to determine the focus of the measure, i.e., vacant lots the target? Construction activities? Also, what will be the documentation necessary to determine a violation? Based on these items determined, an ordinance will be updated by October, 2007 and enforced January, 2008.

<u>Level of Personnel and Funding Allocated for Implementation</u>: Not able to determine until further meetings with Maricopa County.

<u>Enforcement Program</u>: Depending on the final determination, the Engineering and/or the Community Development Departments.

<u>Monitoring Program</u>: Depending on the final determination, the Engineering and/or the Community Development Department will document the violations.

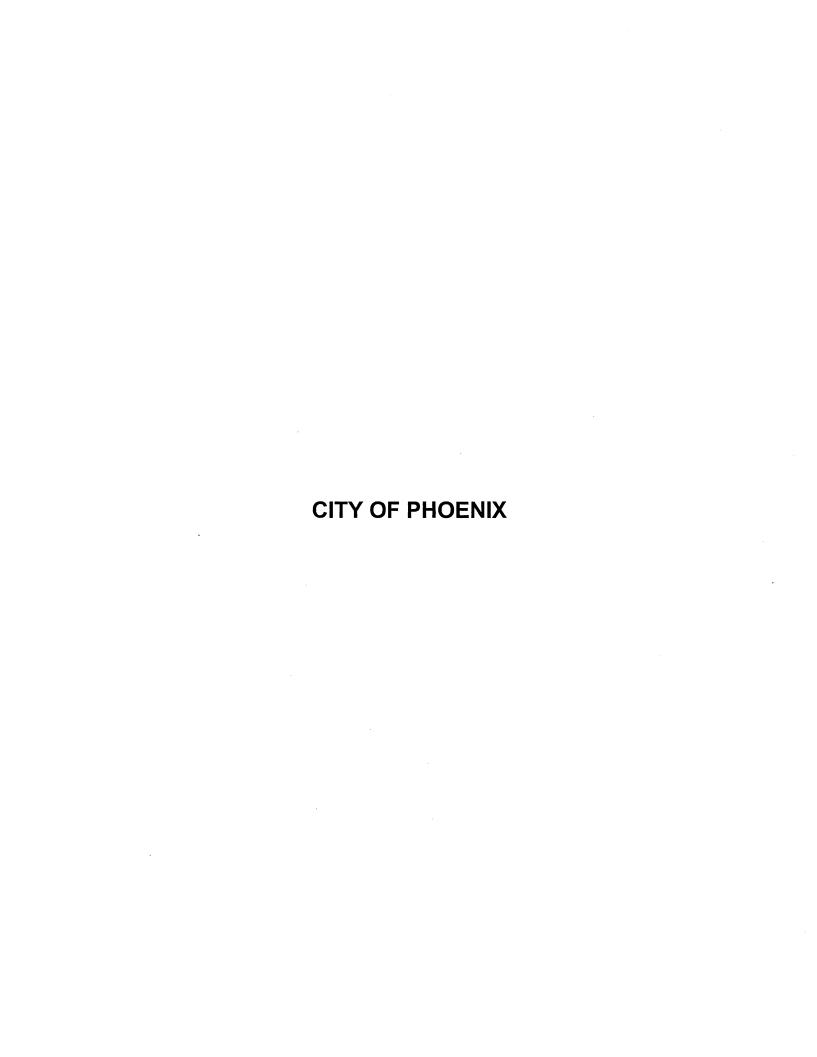
Measure: Re-examine existing ordinances to ensure that non permitted sources, such as unpaved parking, unpaved staging areas, unpaved roads, unpaved shoulders, vacant lots and open areas, receive priority attention.

(MAG Reference #47)

<u>Measure Description</u>: The City of Peoria will review all of its ordinances that affect or regulate non permitted (direct or indirect) sources.

Responsible Agency and Authority for Implementation: The Engineering Department, with assistance of the Police Department, Community Development Department, and other Departments as needed, will review all of the pertinent ordinances to ensure that the City is doing everything that it can to prevent non permitted sources.

<u>Implementation Schedule:</u> Staff will submit to Mayor and Council all necessary ordinance drafts by October 2007.



RESOLUTION NO. 20511

A RESOLUTION STATING THE CITY'S INTENT TO IMPLEMENT MEASURES TO REDUCE AIR POLLUTION.

WHEREAS, the City of Phoenix is committed to implementing programs to reduce air pollution;

WHEREAS, the Maricopa County area has been classified as a Serious Nonattainment Area for Particulate Pollution;

WHEREAS, the Maricopa County Nonattainment Area recorded violations of the federal health standard for particulate matter smaller than 10 microns (PM-10) after the attainment deadline of December 31, 2006;

WHEREAS, the federal Clean Air Act requires that Arizona submit a revised State Implementation Plan to reduce PM-10 emissions by five percent per year until the standard is met;

WHEREAS, the Maricopa Association of Governments (MAG) has been designated by the Governor as the regional air quality planning agency; and

WHEREAS, the MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area must include commitments to reduce PM-10 emissions; and

WHEREAS, Arizona Revised Statutes, Section 49-406(G) requires that each agency which commits to implement a control measure describe that commitment in a resolution, adopted by the governing body, which includes the agency's authority for implementing the measure as provided in statute, ordinance, or rule; a program for

enforcement of the measures; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. That the Council of the City of Phoenix agrees to proceed with a good faith effort to implement the measures identified in Exhibit A, subject to necessary funding approvals.

PASSED by the Council of the City of Phoenix this 13th day of June 2007.

MAYOR

ATTEST:

Mario Taniague City

City Clerk

APPRÓVED AS TO FORM:

Acting City Attorney

REVIEWED BY:

/Manager

SLW:vh/CM85/6-13-07/695347v1

EXHIBIT A

Measure: Public Education and Outreach: Assistance from Local

Governments
MAG 2007 Reference: #1

Measure Description:

The City of Phoenix has received outreach materials from the Maricopa County Bring Back the Blue campaign and those continue to be distributed at City libraries. Other materials provided by the County and State, will be distributed as they become available.

The City will publish articles on particulates and other air quality issues, including information to encourage residents to avoid dust-generating activities. The outreach efforts will also address the proper use of leaf blowers. Examples of City publications include the employee newsletter (City Connection), the City's environmental newsletter (EnviroNotes), and the newsletter distributed in the municipal customer water bill (Notes). City maintains air quality information on the Phoenix.gov internet website with links to the Arizona Department of Environmental Quality, Maricopa County Air Quality Department, and may include other educational web sites.

Units: Distribution estimates: In 2007, the City received the following materials from the County Bring Back the Blue campaign for continuing distribution at the libraries: 4,800 bookmarks, 1,650 brochures, and 50 window clings. Estimated circulation for City publications includes: City Connection ~14,000 employees; EnviroNotes ~800 employees and outside contacts; NOTES, ~400,000 water customers. The City homepage, air quality web page has approximately 2,700 hits per year.

Implementing Agency or City Department:

City of Phoenix, Office of Environmental Programs

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council

Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

Implementation Schedule:

Materials for the Maricopa County Bring Back the Blue campaign materials continue to be distributed. Distribution of other materials from the State and County will be distributed, as they become available. Publication of air quality/particulate pollution articles and website information is on-going.

Personnel and/or Funding:

Outreach programs will be conducted within the operating budget for the Office of Environmental Programs.

Enforcement Program:

This is an administrative program that does not involve an Ordinance or Code. A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Reduce Off-Road Vehicle Use in Areas with High Off-Road

Vehicle Activity MAG Reference: # 22

Measure:

Enhanced Enforcement of Trespass Ordinances and Codes

MAG Reference: #39

Measure Description:

Public and Private Property: The City's regulation of trespass and off-road vehicle use are based upon the City Codes discussed below.

- Trespass: Phoenix City Code, Section 23-85 prohibits entering or remaining on any real property after a reasonable request to leave by the property owner, or any other person having lawful control over such property, or a reasonable notice prohibiting entry.
- Vehicle Parking Traffic Code: Phoenix City Code, Section 36-145 prohibits parking of any motor vehicle on any lot that is not dust-free/dustproof.
- Registered Vacant Lots and Signs: Phoenix City Code Section 36-148 provides that property owners who have trespassing or parking on their vacant lots can post appropriate signs and register their property with the Police Department for enforcement.
- Vehicles on Vacant Lots Traffic Code: Phoenix City Code, Section 36-62 requires that no person shall operate a vehicle on or across any portion of a vacant lot other than on an established dustproof driveway.
- City-Owned Washes and Open Space. Phoenix conducts periodic inspections of the City-owned washes, riverbeds, and other open areas to monitor and respond to vehicle trespass and off-road vehicle activity. Signs, berms, barriers, boulders, fencing, bollards and other methods are used to restrict vehicle use as necessary.
- City Parks: Phoenix City Code, Section 24-51 prohibits parking or driving any vehicle in a City park except within the designated parking areas, or other authorized areas. This includes all City parks, mountain preserves, Rio Salado Wetlands, etc.

Goodyear Ordinance: In response to the Measure Description in the MAG Suggested List of Measures, the City reviewed the "Goodyear Ordinance" and found it to be less stringent than the Phoenix Codes. The Phoenix codes referenced above restrict all vehicle use on vacant areas while the Goodyear Ordinance allows vehicle use with the permission of the property owner.

Units: See Enforcement Program section below

Implementing Agency or City Department:

City of Phoenix, Parks and Recreation Department City of Phoenix, Police Department City of Phoenix, Office of Environmental Programs Other City Departments as necessary (Continued)

Reduce Off-Road Vehicle Use in Areas with High Off-Road Vehicle Activity

And Enhanced Enforcement of Trespass Ordinances and Codes

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council

Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

References to Codes & Ordinances:

Phoenix City Code, Section 24-51: Operation & Parking of Vehicles in Parks

Phoenix City Code, Section 23-85.01: Criminal Trespass

Phoenix City Code, Section 36-62: Operation of Vehicles on Vacant Lots

Phoenix City Code, Section 36-145: Parking on Non-Dust-Free Areas

Phoenix City Code, Section 36-148: Parking in Conformance with Zoning Ordinance

Implementation Schedule:

On-going

Personnel and/or Funding:

Funding for enforcement is included in the annual operating budget for the departments listed above and is not listed as a separate budget allocation.

Enforcement Program:

The Police Department enforces traffic and trespass codes.

The Police and Parks and Recreation Departments each have off-road all-terrain vehicles specifically purchased to help enforce vehicle trespass.

The City conducts enforcement of off-road vehicle activities in areas with high off-road vehicle use as problems are identified. Enforcement activities have been conducted in conjunction with the State Land Department, Maricopa County Flood Control District, when trespass occurs on adjoining properties under the control of those jurisdictions. Joint efforts with these, or other agencies, will be conducted in the future as the need arises.

The Park and Recreation Department enforces the parking and vehicle use codes for City parks, mountain preserves and other open spaces managed by that department. Inspection and control of other washes, riverbeds, and open spaces is conducted by the department who manages the property with assistance from the Office of Environmental Programs. Signs, berms, barriers, boulders, fencing, bollards and other methods are used to restict vehicle use as necessary.

A.R.S., Section 49-406, grants the Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Sweep Streets with PM-10 Certified Street Sweepers

MAG Reference: #29

Measure Description:

The Street Transportation Department currently conducts all routine sweeping of City streets with PM-10 certified sweepers. The City does not use contract services for routine street sweeping.

One street sweeper will be purchased in FY07/08 utilizing FY 2006 CMAQ funding with a local match. The Street Transportation Department does not anticipate replacing any sweepers in FY07/08. Information on future purchases is not currently available because sweeper replacement equipment is only projected one year in advance. Sweepers are replaced based on the recommendations of Public Works Department, Equipment Management Section.

Units: In 2005/06 the City swept approximately 191,058 lane miles of streets. That number is expected to increase as the City continues to grow.

Implementing Agency or City Department:

City of Phoenix, Street Transportation Department

Authority for Implementation:

A.R.S., Section 9-240: General Powers of Council Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

Implementation Schedule:

One sweeper in FY07/08

Personnel and/or Funding:

Total estimated cost for the new sweeper in FY07/08 is \$204,000. Total includes \$190,000 FY2006 CMAQ funding and a local match of \$14,000.

Enforcement Program:

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Pave or Stabilize Existing Unpaved Parking Lots

MAG 2007 Reference: #31

Measure Description:

Parking standards are addressed through the Zoning Code, the Neighborhood Preservation Ordinance (Phoenix City Code, Chapter 39), and the Traffic Codes.

- Review of Codes and Policies: To enhance compliance with the Zoning Codes for designated parking areas, the Planning Department will review their letters of approval for alternative parking lot treatment to clarify that the property must be "maintained" in compliance with the Code and other edits to enhance compliance.
- Zoning Code Parking Standards Zoning Code Section 702 requires that all parking, maneuvering areas, and storage areas shall have dustproof paving which includes asphalt, concrete, or an equivalent treatment as approved by the Zoning Administrator.
- Property Maintenance Neighborhood Preservation Ordinance: City Code Section 39-7(G) requires that motor vehicles or trailers shall not be parked, maneuvered, or stored upon a lot or area within the City which is not dustproof. Dustproof parking includes asphalt, concrete, or equivalent treatment as approved by the Zoning Administrator. Dustproof parking for a single family or duplex lot may include asphalt; concrete; a smooth layer of crushed rock or gravel ¼ to ¾ inch size that is maintained to a depth of two inches with a permanent boarder; or alternative as approved by the Zoning Administrator.
- Vehicles on Vacant Lots Traffic Code: Phoenix City Code, Section 36-62 requires that no person shall operate a vehicle on or across any portion of a vacant lot other than on an established dustproof driveway.

Units: See Enforcement Program section below

Implementing Agency or City Department:

City of Phoenix, Neighborhood Services Department

City of Phoenix, Planning Department

City of Phoenix, Development Services Department

City of Phoenix Police Department

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council

Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

References to Codes & Ordinances:

City of Phoenix Zoning Code, Section 202: Definitions

City of Phoenix Zoning Code, Section 702 (A)(2)(d): Dustproofing and Paving

Phoenix City Code, Section 36-62: Operation of Vehicles on Vacant Lots

Phoenix City Code: (Neighborhood Preservation Ordinance) Section 39-7 (G): Property Maintenance

-Parking, Maneuvering, and Storage

Implementation Schedule:

On-going

Planning will complete the review of the approval letter for alternative pavement, codes and policies and complete any edits by January 1, 2008.

(Continued)

Pave or Stabilize Existing Unpaved Parking Lots

Personnel and/or Funding:

Funding for the Planning, Neighborhood Services Department, Development Services Department and Police Departments' tasks is included in the annual operating budget and is not listed as a separate allocation.

Enforcement Program:

The Planning Department Administers the Zoning Code.

The Neighborhood Services Department and the Development Services Departments enforce the Zoning (site plan/parking plan) standards.

The Neighborhood Services Department also enforces the Neighborhood Preservation Ordinance on all properties on a complaint basis. Over the past few years NSD issued an average of more than 7,500 Notices of Violation each year for dust-proofing requirements.

In addition to responding to complaints, the City Council-approved NSD Code Enforcement Policy allows that when an initial inspection is conducted based upon a complaint for another violation, the inspector may expand upon the initial complaint on the same property to determine whether any of eight common blight violations exist, including non-dustproof parking.

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys

MAG Reference: #32

Measure Description:

In compliance with Arizona Revised Statute (A.R.S.), Section 9-500.04, the City of Phoenix has developed plans, and continues to implement programs, to pave or stabilize targeted unpaved roads and alleys. The plans include criteria for targeting/prioritizing roads and alleys, such as traffic volumes, heavy truck traffic, PM-10 concentrations, etc. (See Implementation Schedule section below for additional detail.)

Roads: In 1999, the City identified all City-owned unpaved roads (approximately 70 miles) and applied asphalt treatment. The City is currently conducting an inventory of all City right-of-way (ROW) to update the GIS system and to identify unpaved ROWs that are being used as a cut-through or roadway. As these "new" roads are identified they will be prioritized and scheduled for stabilization with asphalt, rock, or some other stabilization treatment.

The City's program to stabilize existing dirt roads will be updated to specify that the targeting/prioritization process will include consideration of roads with an estimated traffic volume of more than 50 trips per day. Traffic volumes, heavy truck traffic and PM-10 concentrations will continue to be considered as well.

Alleys: City alleys are stabilized with either asphalt treatment, rock product, or other treatment. Since 2002 approximately 265 miles of alleys have been upgraded to asphalt treatment.

Road Improvement Standards: Phoenix City Code, Section 31.91 – Streets and Sidewalks and Section 32.33 - Subdivisions, require that residential, industrial, and commercial developments design and construct right-of-way improvements to meet City standards including, but not limited to, paving, curb, gutter, and sidewalk. The specific standards are maintained in the City of Phoenix Supplement to the Maricopa Association of Governments Uniform Standard Specifications. The standards allow for certain exceptions consistent with other portions of chapters 31 and 32 and other applicable laws.

Units: See Implementation Schedule section below.

Implementing Agency or City Department:

City of Phoenix, Street Transportation Department City of Phoenix, Development Services Department

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities (Continued)

Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys

References to Codes & Ordinances:

A.R.S., Section 9-500.04, Air Quality Control- Cities and Towns
Phoenix City Code, Section 31-91: Street Dedication and Improvement Requirements
Phoenix City Code, Section 32-33: Subdivisions-Street and Utility Improvement Requirements
City of Phoenix, Supplement to the Maricopa Association of Governments Uniform Standard
Specifications.

Implementation Schedule:

The plan for stabilizing roads and alleys will be updated by December 31, 2007. The schedule for paving and stabilizing unpaved roads and alleys is listed below.

Traffic volume on roads that are scheduled to be paved or stabilized will be estimated as the new roads are identified.

Roads: Length and costs will vary based upon final surveys, design, and construction costs.

Fiscal Year	Length (Center-lane miles = 2/lane/mile)	City Funds	Federal Funds	Total Cost
Asphalt			·	
2006/2007	≈ 0.25	225,000	0	225,000
2007/2008	≈ 3.25	700,000	933,333	1,633,333
2008/2009	≈ 3.0	450,000	1,050,000	1,500,000
2009/2010	TBD	500,000		500,000
Total Roads	≈ 6.5 mi.	\$1,875,000	\$1,983,333	\$3,858,333

Alleys: Length and costs will vary based upon final surveys, design, and final construction costs.

Fiscal Year	Length (Linear Miles = 1 lane/mile)	City Funds	Federal Funds	Total
Asphalt				
2006/2007	≈ 9.0	\$390,000	0	390,000
2007/2008	≈ 45.0	\$548,100	\$1,278,900	1,827,000
2008/2009	≈ 18.0	\$200,000	\$466,667	666,667
2009/2010	TBD	(Note 1)		(Note1)
Stabilization				
2006/2007	Millings to be applied	(Note 2)		
2007/2008	Millings to be applie	(Note 2)		
2008/2009	Millings to be applie	(Note 2)		
2009/2010	Millings to be applie	(Note 2)		
Total Alleys	≈72 mi.	\$1,138,100	\$1,745,567	2,883,667

All dollar totals include design, administration and construction.

Note 1: Funds in this budget are jointly utilized for alley treatments and purchase of street sweepers. Estimated allocations are not feasible at this time. Total budget is \$418,000.

Note 2: Millings are funded from the Street Transportation Department, Preventive Maintenance materials budget and is not listed as a separate budget allocation.

(Continued)

Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys

Personnel and/or Funding:

See Implementation Schedule above.

Enforcement Program:

City of Phoenix, Development Services Department & the Street Transportation Department enforce the street standards for new roads.

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Limit Speeds to 15 Mile-Per-Hour Speed Limits on High-Traffic

Dirt Roads

MAG Reference: #33

Measure Description:

The 15-MPH speed limits on high traffic dirt roads are not currently used in the City of Phoenix because unpaved roads are stabilized with asphalt, rock, or other stabilization treatment.

As new City-owned unpaved roads are identified in annexed land or other areas, they will be scheduled for stabilization, or paving. Priority will be given to roads with more than 50 trips per day.

If stabilization or paving will be delayed, the City will determine if limiting speeds to not less than 15 miles-per-hour is necessary to maintain the ambient air quality standards.

Units: Not applicable.

Implementing Agency or City Department:

City of Phoenix, Street Transportation Department

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

References to Codes & Ordinances:

A.R.S., Section 28-626, Uniform Application of Laws throughout the State

A.R.S., Section 28-627, Powers of Local Authorities

A.R.S., Section 28-703, Alteration of Speed Limit by Local Authority

Implementation Schedule:

The City does not anticipate the need for installing 15 mph signs on high-traffic roads based upon the program to schedule paving or stabilization for unpaved roads as they are identified.

Personnel and/or Funding:

Not applicable.

Enforcement Program:

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Pave or Stabilize Unpaved Shoulders

MAG Reference: #35

Measure Description:

Existing Shoulders: In compliance with Arizona Revised Statute (A.R.S.), Section 9-500.04, the City of Phoenix has developed a plan, and continues to implement programs, to pave or stabilize unpaved shoulders on targeted arterial streets. The plan includes criteria for targeting/prioritizing roads such as traffic volumes, heavy truck traffic, PM-10 concentrations etc. (See Implementation Schedule section below for additional detail.)

Stabilization for targeted shoulders includes asphalt, rock, or other treatments on shoulders as well as curb and gutter. Asphalt right turn lanes have also been added to high-priority intersections with heavy traffic volumes.

The City's program to pave or stabilize shoulders will be updated to specify that the targeting and prioritization process will include consideration of unpaved shoulders on arterial roads and other segments where vehicle use on unpaved shoulders is evident or anticipated due to projected traffic volumes. Shoulders on roads with more than 2,000 trips per day will also be considered in the targeting/prioritization process. Traffic volumes, heavy truck traffic and PM-10 concentrations will continue to be considered as well.

Road Improvement Standards: Phoenix City Code, Section 31.91 – Streets and Sidewalks and Section 32.33 - Subdivisions, require that residential, industrial, and commercial developments design and construct right-of-way improvements to meet City standards including, but not limited to, paving, curb, gutter, and sidewalk. The specific standards are maintained in the City of Phoenix Supplement to the Maricopa Association of Governments Uniform Standard Specifications. The standards allow for certain exceptions consistent with other portions of Chapters 31 and 32 and other applicable laws.

Units: See Implementation Schedule section below.

Implementing Agency or City Department:

City of Phoenix, Street Transportation Department City of Phoenix, Development Services Department

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

References to Codes & Ordinances:

A.R.S., Section 9-500.04, Air Quality Control-Cities and Towns
Phoenix City Code, Section 31-91: Street Dedication and Improvement Requirements
Phoenix City Code, Section 32-33: Subdivisions-Street and Utility Improvement Requirements
City of Phoenix, Supplement to the Maricopa Association of Governments Uniform Standard
Specifications.

Implementation Schedule:

The plan for paving and stabilizing shoulders will be updated by December 31, 2007. The maintenance schedule for stabilized shoulders will vary based upon the treatment. The schedule for paving and stabilizing roads and alleys is listed below.

(Continued)

Pave or Stabilize Unpaved Shoulders

Shoulders: Length and costs will vary based upon final surveys, design, and construction cost.

Fiscal Year	Length (Linear miles = 1/lane/mile)	City Funds	Federal Funds	Total
Asphalt (≈12')				
2006/2007	≈ 2	320,000	0	320,000
2007/2008	≈ 1.5	214,000	0	214,000
2008/2009	≈1	200,000	0	200,000
2009/2010	TBD	200,000	0	200,000
Curb and Gutter				
2006/2007	≈ 7	375,000	0	375,000
2007/2008	≈ 8	425,000	0	425,000
2008/2009	≈ 7	375,000	0	375,000
2009/2010	≈ 7	375,000	0	375,000
TOTAL	≈ 33.5 mi.	\$2,484,000		\$2,484,000
Asphalt & C/G				

All dollar totals include costs for design, administration, and construction.

Personnel and/or Funding:

See Implementation Schedule above.

Enforcement Program:

City of Phoenix, Development Services Department & the Street Transportation Department enforce the street standards for new roads including shoulders.

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Restrict Vehicle Use and Parking on Vacant Lands

MAG Reference: #38

Measure Description:

Public and Private Property: Vehicle use on public or private property is regulated through several City Codes.

- Traffic on Vacant Lots Traffic Code: Phoenix City Code, Section 36-62 requires that no person shall operate a vehicle on or across any portion of a vacant lot other than on an established dustproof driveway.
- Vehicle Parking Traffic Code: Phoenix City Code, Section 36-145 prohibits parking of any motor vehicle on any lot that is not dust-free/dustproof.
- Property Maintenance Neighborhood Preservation Ordinance: Phoenix City Code, Section 39-7 (G) requires that motor vehicles or trailers shall not be parked, maneuvered, or stored on any lot or area which is not dustproof. Standards for designated parking areas are discussed in *Pave or Stabilize Existing Unpaved Parking Lots*: MAG Reference: #31.
- City Parks: Phoenix City Code, Section 24-51 prohibits parking or driving any vehicle in a City park except within the designated parking areas, or other authorized areas. This includes all City parks, mountain preserves, Rio Salado Wetlands, etc.

City Property: The City of Phoenix owns properties acquired for future parks or other facilities, safety condemnations, buffer zones for the wastewater treatment facilities, etc. Periodic inspections are conducted by the Office of Environmental Programs, or the department who owns the property, to ensure the properties are stabilized in compliance with Maricopa County Rule 310.01. Stabilization methods include heavy watering, rock products, chemical stabilizers, etc. In addition, access is controlled with signs, berms, fencing, bollards, boulders, or other methods as necessary.

Units: See Enforcement Program section below

Implementing Agency or City Department:

City of Phoenix, Police Department

City of Phoenix, Neighborhood Services Department

City of Phoenix, Parks and Recreation Department

City of Phoenix, Office of Environmental Programs

City of Phoenix, Aviation Department

City of Phoenix, Water Services Department

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council

Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

References to Codes & Ordinances:

Phoenix City Code, Section 24-51: Operation & Parking of Vehicles in Parks

Phoenix City Code, Section 36-62: Operation of Vehicles on Vacant Lots

Phoenix City Code, Section 36-145: Parking on Non-Dust-Free-Areas

Phoenix City Code: (Neighborhood Preservation Ordinance) Section 39-7(G): Property Maintenance

-Parking, Maneuvering, and Storage

Restrict Vehicle Use and Parking on Vacant Lands

Implementation Schedule:

On-going

Personnel and/or Funding:

Funding for the Neighborhood Services Department, Development Services Department and Police Department tasks is included in the annual operating budget and is not listed as a separate allocation.

Enforcement Program:

The Neighborhood Services Department (NSD) enforces the Neighborhood Preservation Ordinance for on all properties on a complaint basis. Over the past few years NSD issued an average of more than 7,500 Notices of Violation each year for dust-proofing requirements on parking surfaces of residential, commercial or industrial properties and undeveloped property.

In addition to complaints, the City Council approved NSD Code Enforcement Policy allows that when an initial inspection is conducted based upon a complaint for another violation, the inspector may expand upon the initial complaint on the same property to determine whether any of eight common blight violations exist, including non-dustproof parking.

The Police Department enforces traffic and trespass codes.

The Park and Recreation Department enforces the parking codes for City parks, mountain preserves and other open spaces.

The Office of Environmental Programs, Water Services Department, Aviation, and Neighborhood Services manage dust control protection on City property.

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Measure: Discourage the Use of Leaf Blowers

MAG Reference: None

Measure Description:

The City of Phoenix has restricted the use of leaf blowers for routine landscape and other maintenance activities on City property. Leaf blowers are only used for unique applications such as skateboard parks, or difficult maintenance applications. The dust control training for City staff will be expanded to included instruction on the restricted use of leaf blowers by employees and contractors. The training will also help ensure that at those limited times when leaf blowers are used, the debris shall not be blown into the streets.

The City distributes High Pollution Advisory notifications so that employees can take appropriate actions including prohibiting the use of leaf blowers and other dust generating activities.

Also see the Public Outreach (MAG reference #22). The Maricopa County Bring Back the Blue campaign includes tips to reduce dust from leaf blowers.

Implementing Agency or City Department:

City of Phoenix, Parks and Recreation Department Office of Environmental Programs Other City Departments as necessary

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council Phoenix City Charter, Chapter 2: General Powers, Rights, and Liabilities

Personnel and/or Funding:

Restricted use of leaf blowers by City staff does not require additional staff or resources. Outreach is addressed in Measure #1.

Enforcement Program:

The Office of Environmental Programs coordinates the outreach efforts and trains appropriate employees on the proper use of leaf blowers. Field staff supervisors are responsible for oversight of leaf blower use by City staff and landscape maintenance contractors.

A.R.S., Section 49-406, grants Maricopa County and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

The City will submit progress reports to State and/or County agencies upon request.

SLW:vh/CM85/6-13-07/695350v1

CITY OF PHOENIX

Codes and Ordinances: MAG 2007 Five Percent Plan for PM-10

(Reference Date: June 1, 2007)

Citation	Section and Heading	Text	Control Measure
Arizona Revised Stature 9-240	·	Text Available at: http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp	All
General Powers of Council Phoenix City Charter Chapter 2 General Powers, Rights, and Liabilities		Text Available at: http://phoenix.gov//CITYCODE/ch000.html	All
Phoenix Zoning Code Definitions	Section 202	Dustproof Paving: Parking, maneuvering, ingress and egress areas maintained by paving with one of the following methods: (1) asphaltic concrete, (2) cement concrete, (3) penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, or (4) the equivalent of the above as approved by the Zoning Administrator. Dustproof Surface: For single-family and duplex residential uses, the following alternative methods of dustproofing parking and maneuvering areas are permitted: (1) a smooth layer of crushed rock or gravel no smaller than one-quarter inch and no larger than three-quarters of an inch maintained to a minimum depth of two inches, contained within a permanent border or (2) an alternative surface treatment as approved by the Zoning Administrator that will equal or exceed the dust free characteristics of the above listed alternatives.	Pave or Stabilize Existing Unpaved Parking Lots • MAG Reference #31

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix Zoning Code Dust Proofing and Paving	Section 702	Subsection (A)(2)(d) Dustproofing and paving. (1) All parking and maneuvering areas within the front yard and side yards adjoining a primary residential structure shall be maintained in a dustproofed condition. If more than the above prescribed area of the front yard is surfaced with a similar dustproof material, the parking and maneuvering area within the front yard and side yards adjoining the primary structure shall be delineated with a permanent border. +9 (2) All parking and maneuvering areas on a residential lot, except single-family or duplex residential, shall have dustproof paving. (3) All parking and maneuvering areas on a non-residential lot shall have dustproof paving. This includes areas of a lot used to store pneumatically tired vehicles and lots for used cars. +9 (4) Dustproof paving or surfacing shall be provided on any such lots by April 20, 1999 or the effective date of the original City zoning. The Zoning Administrator may approve an alternate schedule for single-family or duplex residential uses if there are extenuating circumstances.	Pave or Stabilize Existing Unpaved Parking Lots • MAG Reference #31
Phoenix City Code Chapter 23 Criminal Trespass	Section 23- 85.01	A. Definitions. 1. Enter or remain unlawfully means an act of a person who enters or remains on premises when such person's purpose for so entering or remaining is not licensed, authorized or otherwise privileged. 2. Entry means the intrusion of any part of any instrument or any part of a person's body inside the external boundaries of a structure or unit of real property. 3. Fenced commercial yard means a unit of real property surrounded completely by either fences, walls, buildings, or similar barriers or any combination thereof, and used primarily for business operations or where livestock, produce or other commercial items are located. 4. Fenced residential yard means a unit of real property immediately surrounding or adjacent to a residential structure and enclosed by a fence, wall, building or similar barrier, or any combination thereof. 5. Nonresidential structure means any structure other than a residential structure. 6. Residential structure means any structure, movable or immovable, permanent or temporary, adapted for both human residence and lodging whether occupied or not. 7. Structure means any building, object, vehicle, railroad car or place with sides and a floor, separately securable from any other structure attached to it and used for lodging, business, transportation, recreation or storage. B. The following acts shall constitute criminal trespass and any person who commits any of these acts shall be guilty of a misdemeanor. 1. Entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.	Reduce Off-Road Vehicle Use • MAG Reference #22 Enhanced Enforcement of Trespass Ordinances • MAG Reference #39

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix City Code Chapter 24 Operation and Parking of Vehicles in Parks	Section 24-51	A. No person shall drive any vehicle within a park except upon paved roads or drives or in paved parking areas, or in other areas authorized as parking areas by the Director or the Director's designees. B. No person shall park or stand a vehicle in a park except within a designated space in a designated parking area, or in other areas authorized as parking areas by the Parks Director or the Director's designees. No person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the shoulder or berm of any road or drive within a park except in case of a medical emergency or unless the vehicle is disabled. C. The prohibitions of this ordinance, concerning driving, parking and standing, shall be conspicuously posted near all entrances to any park. The prohibitions of this ordinance shall not apply to persons exempted by the Director or the Director's designees, or to persons performing work which is authorized by a lease with the City of Phoenix or concession agreement with the Board and which is performed at the direction of the lessee or concessionaire. D. A person who is convicted of a violation of subsection A of this section is guilty of a Class 1 misdemeanor and shall be sentenced to pay a fine of not less than one hundred dollars and to perform not less than eight hours of community service under the supervision of the Department. The court shall not suspend any part or all of the imposition or execution of any sentence required by this subsection. E. A person who violates subsection B of this section is subject to a civil sanction. The court shall impose: 1. A minimum civil sanction of not less than fifty dollars if the court finds that the person violated subsection B by parking or standing a vehicle less than ten feet from a paved road or drive, or paved parking area, or any other authorized parking area, or by parking or standing a vehicle other than within a designated space in a designated parking area. The court shall not suspend any part or all of the imposition or e	Reduce Off-Road Vehicle Use • MAG Reference #22 Restrict Vehicle Use and Parking on Vacant Lands • MAG Reference #38 Enhanced Enforcement of Trespass Ordinances • MAG Reference #39

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix City Code Chapter 31 Streets and Sidewalks - Street Dedication and Improvement Requirements	Section 31-91	(a) No building permit shall be issued for new construction, or enlargements to existing structures, consisting of four or more multifamily residential dwelling units or two thousand square feet or more of commercial or industrial building floor area on any lot or parcel of land which abuts any existing or future street right-of-way unless the one-half of such abutting right-of-way which is located on the same side of the center of the street as such lot or parcel of land has been dedicated and improved, or installation of improvements has been assured, for the full width of the lot or parcel where it abuts so as to meet the standards for each right-of-way as provided by the "Minimum Right-of-Way Standards Map." (b) Improvements and assurances of construction shall be as required for subdivisions by chapter 32 of the City Code.	Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys MAG Reference #32 Pave or Stabilize Unpaved Shoulders MAG Reference #35
Phoenix City Code Chapter 32 Subdivisions - Street and Utility Improvement Requirements.	Section 32-33	(E) Required improvements. (1) Streets and alleys. All streets and alleys within the subdivision shall be graded and surfaced to cross sections, grades and standards approved by the Street Transportation Director on major streets and the Development Services Director or designee for all other streets and alleys. Where there are existing streets adjacent to the subdivision, subdivision streets shall be improved to the intercepting paving line of such existing streets. Dead-end streets serving more than four lots shall be provided a graded and surfaced temporary turning circle. (2) Curbs. Where streets are to be paved, Portland cement concrete curb, curb and gutter, or valley gutter, as approved by the Department shall be installed in accordance with approved City standards. (3) Sidewalks. Portland cement concrete sidewalks shall normally be required on both sides of streets and shall be constructed to a width, line, and grade approved by the Department in accordance with approved City standards. Where density of development is light or where for other reasons the installation of sidewalks is not considered necessary, the Department may waive the requirement on one or both sides.	Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys • MAG Reference #32 Pave or Stabilize Unpaved Shoulders • MAG Reference #35

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix City Code Chapter 36 Vehicles and Traffic	Section 36-62; Operation of Vehicles on Vacant Lots	No person shall operate a vehicle on or across any portion of a vacant lot other than on an established dustproof driveway.	Reduce Off-Road Vehicle Use MAG Reference #22 Pave or Stabilize Existing Unpaved Parking Lots MAG Reference #31 Restrict Vehicle Use and Parking on Vacant Lands MAG Reference #38 Enhanced Enforcement of Trespass Ordinances MAG Reference #39

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix City Code Chapter 36 Parking on Non-Dust- Free Lots	Section 36-145	A. No person shall park, or permit to be parked, any motor vehicle upon any lot or area within the City which is not dust-free. Violation of this section shall constitute a civil traffic violation, and the violator shall be subject to a civil sanction of not less than one hundred fifty dollars or more than two hundred fifty dollars. B. "Dust-free" shall mean that a lot or area is maintained by paving with one of the following methods: asphaltic concrete, cement concrete, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, or the equivalent as approved by the Zoning Administrator. C. An area which encompasses all or part of a residential lot which contains one single-family or duplex residential unit is also dust-free if covered by a smooth layer of crushed rock or gravel maintained to a minimum depth of three* inches and contained within a permanent border or an alternative surface treatment as approved by the Development Services Department that will equal or exceed the dust-free characteristic of contained crushed rock or gravel. D. This section shall not be applicable to vehicles parked in the rear yard of a residential lot which contains one single-family or duplex residential unit. E. It shall be an affirmative defense to a violation of this section that the condition of the lot was in compliance with a stipulation made by the Zoning Administrator permitting temporary parking for civic events and that the vehicle was parked by or on behalf of an attendee of such an event. *NOTE: The three-inch standard is incorrect in the Code and will be amended to comply with the 2-inch standard in the Zoning Code.	Reduce Off-Road Vehicle Use MAG Reference #22 Restrict Vehicle Use and Parking on Vacant Lands MAG Reference #38 Enhanced Enforcement of Trespass Ordinances MAG Reference #39

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix City Code Chapter 36 Parking on Non-Dust Free Areas	Section 36-148	A. It shall be unlawful for any person to park or permit to be parked any motor vehicle upon any lot within the City, except in conformance with the Zoning Ordinance of the City. B. The owner of record of any lot or area shall be held responsible under this ordinance. Provided, however, after said lot or area has been registered, in accordance with the provisions of section 36-148(C), Code of the City of Phoenix, the owner of record of said lot or area shall not be subject to any penalty under this section for the parking thereon of motor vehicles except for those vehicles owned by said owner. C. The owner of record of any lot or other area in the City may register said lot or area, regardless of its zoning classification. Forms for registration shall be provided by the Building Safety Department of the City and shall constitute the City the agent of the owner with full power to prevent the parking of all motor vehicles on the property so registered, and, if necessary permit the City to impound any motor vehicles parked thereon in accordance with the provisions of sections 36-7, 36-8, and 36-9, Code of the City of Phoenix. At the time of registration, the owner of record shall pay to the Treasurer of the City, the sum of thirty-five dollars per one hundred feet of street frontage to defray the cost of making and placing a sign, or signs, upon said property showing that the same has been registered under this section. If the owner's application is at the written request of the City, the registration fee may be waived. D. Upon the registration of any lot or other area and the payment of the required fees, the Traffic Engineering Department of the City shall place a sign, or signs, on the registered property in such a position that it is visible to anyone attempting to use the area for parking. The sign, or signs, shall state that the property has been registered under this section, that parking on said lot constitutes a civil traffic violation, that any motor vehicle found thereon may be impounded, and that t	Reduce Off-Road Vehicle Use • MAG Reference #22 Enhanced Enforcement of Trespass Ordinances MAG Reference #39

Citation	Section and Heading	Text	Control Measure Authorized
Phoenix City Code Chapter 39 Property Maintenance – Parking, Maneuvering and Storage	Section 39-7 Exterior Premises and Vacant Lands	G. Parking areas: Motor vehicles or trailers shall not be parked, maneuvered or stored upon a lot or area within the City which is not dustproof. 1. "Dustproof" shall mean that a lot or area is maintained by paving with one of the following methods: asphaltic concrete, cement concrete, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, or the equivalent as approved by the Zoning Administrator. 2. An area which encompasses all or part of a residential lot which contains one single family or duplex residential unit is also dustproof if covered by a smooth layer of crushed rock or gravel no smaller than one-quarter-inch and no longer than three-quarters-inch maintained to a minimum depth of two inches and contained within a permanent border or by an alternative surface treatment as approved by the Zoning Administrator that will equal or exceed the dustproof characteristic of the above listed alternatives.	Restrict Vehicle Use and Parking on Vacant Lands MAG Reference #38 Pave or Stabilize Existing Unpaved Parking Lots MAG Reference #31
City of Phoenix Supplement to Maricopa Association of Governments Uniform Standard Specifications (2004)	Street Standards	This document provides detailed standards for road construction	Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys • MAG Reference #32 Pave or Stabilize Unpaved Shoulders • MAG Reference #35
A.R.S. Title 9 Air Quality Control: Cities and Towns	Section 500.04	A. The governing body of a city or town in area A or B as defined in section 49-541 shall: 3. In area A, beginning on January 1, 2000, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting the roads, alleys and shoulders, a schedule for implementation, funding options and reporting requirements.	Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys • MAG Reference #32 Pave or Stabilize Unpaved Shoulders • MAG Reference #35

Citation	Section and Heading	Text	Control Measure Authorized
A.R.S. Title 28 Transportation Chapter 3: Traffic and Vehicle Regulation	Section 626 Uniform Application of Laws Throughout State	A. The provisions of this chapter and chapters 4 and 5 of this title are applicable and uniform throughout this state and in all political subdivisions in this state. B. A local authority: 1. Shall not enact or enforce an ordinance or regulation in conflict with this chapter or chapter 4 or 5 of this title unless expressly authorized by this chapter or chapter 4 or 5 of this title. 2. May adopt additional traffic regulations that are not in conflict with this chapter or chapter 4 or 5 of this title. 3. Shall adopt ordinances or regulations relating to the control and movement of traffic, including parking or standing ordinances or regulations that provide for the imposition of civil penalties on the violation of the ordinance or regulation. C. Unless a local ordinance or regulation provides for the imposition of a criminal penalty, a violation of the ordinance or regulation constitutes a civil traffic violation.	Limit Speeds to 15 Mile-Per-Hour Speed Limits on High Traffic Dirt Roads • MAG Reference #33
A.R.S. Title 28 Transportation Chapter 3: Powers of Local Authorities	Section 627	12. Adopting other traffic regulations that are specifically authorized by this chapter or chapter 4 or 5 of this title.	Limit Speeds to 15 Mile-Per-Hour Speed Limits on High Traffic Dirt Roads • MAG Reference #33

Citation	Section and Heading	Text	Control Measure Authorized
A.R.S. Title 28 Transportation Chapter 3: Alteration of Speed Limit by Local Authority	Section 703	A. If a local authority determines on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable or safe under the conditions found to exist on any part of a street or highway in its jurisdiction, the local authority may determine and declare a reasonable and safe maximum speed limit at the location and, based on the investigation, may: 1. Decrease the limit at intersections. 2. Increase the limit within any business or residence district to not more than sixty-five miles per hour. 3. Decrease the limit outside any business or residence district. 4. Increase or decrease the limit on streets adjacent to school grounds. B. A local authority shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets in its jurisdiction and shall declare a reasonable and safe maximum limit on the arterial streets in its jurisdiction that may be more or less than the maximum speed permitted under this article for a business or residence district. C. A local authority may decrease the limit to not less than fifteen miles per hour on an unpaved street or road within any district in its jurisdiction if the local authority determines that the limit is necessary to achieve or maintain national ambient air quality standards. D. An altered limit established as provided for in this section is effective at all times, or during hours of darkness, or at other times as may be determined if appropriate signs giving notice of the altered limit are erected on the street or highway. E. The alteration of maximum speed limits on state highways or extensions of state highways in a municipality by a local authority is not effective until the director approves the alteration. F. A local authority shall not make more than six alterations. The difference between adjacent limits shall not be more than ten miles per hour except for school crossings.	Limit Speeds to 15 Mile-Per-Hour Speed Limits on High Traffic Dirt Roads • MAG Reference #33

R:\Air\1-Gaye K\Code References and Citation-MAG.doc

TOWN OF QUEEN CREEK

RESOLUTION 652-07

RESOLUTION TO IMPLEMENT MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NONATTAINMENT AREA

WHEREAS, the Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona, as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Area for PM-10 particulate matter according to the Clean Air Act; and

WHEREAS, the Five Percent Plan for PM-10 is required by the Clean Air Act since the Maricopa County nonattainment area failed to attain the PM-10 standard by December 31, 2006; and

WHEREAS, the plan is required to reduce PM-10 emissions by five percent per year until the standard is met; and

WHEREAS, Arizona Revised Statutes 49-406G. requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measure as provided in statute, ordinance, or rule; a program for enforcement of the measures; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Queen Creek, Arizona, as follows:

- Section 1. That the council of the Town of Queen Creek agrees to proceed with a good faith effort to implement the measures identified in Exhibit A which is part of this resolution.
- That the Town of Queen Creek commits to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, the Town agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

PASSED AND ADOPTED by the Mayor and Council of the Town of Queen Creek, Arizona, this 6th day of June 2007.

TOWN OF QUEEN CREEK:

ATTESTED TO:

Arthur M. Sanders, Mayor

Jennifer F. Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

John Kross, Town Manager

Fredda J. Bisman, Town Attorney

Measure 1. Public education and outreach with assistance from local governments

Measure description: The Town Council will proclaim the first week of each August to be "Dust Awareness Week". Accompanying this action will be a news release to the local media. A flyer discussing the importance of reducing dust in the Town of Queen Creek will be made available in all Town offices with public accessibility. A "Dust Control Hotline" will be set up to receive calls from the public and staff regarding air quality concerns. Right-of-way encroachment and on-site building permits will be modified to include a reminder of dust control requirements.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Public Works Department, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule</u>: Program will begin on August 1, 2007 with the proclamation of "Dust Awareness Week", and will recur each of the following two years.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The program will be implemented by existing personnel. The annual time and material cost to implement the measure is estimated to be \$2000 - \$5000 in FY 07/08, \$2,000 in FY 08/09 and \$2,000 in FY09/10.

Enforcement Program: N/A

<u>Monitoring Program</u>: Staff will track the number and type of calls received regarding dust issues to determine if outreach campaign is effective.

Measure 22. Reduce off-road vehicle use in areas with high off-road vehicle activity

Measure description: Park Rangers and Code Enforcement staff will monitor off-road vehicle activity during the normal course of their daily work. Data will be gathered from July 1, 2007 to July 1, 2008 to determine whether there is a problem and enforcement measures need to be implemented. The identification of any problem areas and the recommended course of action will be submitted to Council for approval and implementation. MAG will be notified of implementation plan following Council's approval.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Parks and Recreation Department and Community Development Department, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule:</u> Monitoring will begin on July 1, 2007 and continue to July 1, 2008. If problem areas are identified, a recommended course of action/implementation schedule will be submitted to Council no later than September 30, 2008. MAG will then be advised of the approved course of action.

<u>Level of Personnel and Funding Allocated for Implementation</u>: Existing personnel in the Parks and Recreation Department and Community Development Department will monitor any off-road vehicular activity.

<u>Enforcement Program</u>: If a need is identified, recommended course of action may include the implementation of an enforcement program. MAG will be notified of any applicable actions undertaken by the Town.

<u>Monitoring Program</u>: Parks Rangers patrol Town-owned properties daily. Code Enforcement personnel respond to complaints as they are received.

Measure 29. Sweep streets with PM-10 certified street sweepers

<u>Measure description</u>: The Town of Queen Creek Public Works Department will use only PM-10 certified street sweepers to clean roads. Contractors retained by the Town will also be required to use PM-10 certified street sweepers.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Public Works Department, through the authority granted to them by A.R.S. § 9-240.

Implementation Schedule: The Town is currently in compliance.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The Public Works Department has three PM-10 certified street sweepers in the fleet and operators on staff. The program is fully funded.

Enforcement Program: N/A.

Monitoring Program: N/A.

Measure 31. Pave or stabilize existing unpaved parking lots

<u>Measure description</u>: The Town will stabilize five existing Town-owned parking lots and the drive approach to the temporary municipal corporation yard. Code Enforcement personnel will help to identify the privately-owned unpaved parking lots and determine the course of action needed to correct the deficiency.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Public Works Department and Community Development, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule</u>: The identified five parking lots and drive approaches owned by the Town will be stabilized by September 2007. Code Enforcement personnel will begin immediately identifying unpaved privately-owned parking lots.

<u>Level of Personnel and Funding Allocated for Implementation</u>: A one-time "contractual" cost of \$50,000 to stabilize Town-owned properties is included in the proposed budget for FY07/08. Code Enforcement personnel will monitor privately-owned parking lots during the course of their normal daily work activities.

<u>Enforcement Program</u>: Town Zoning Ordinance, Article 5.6 (A) 8. (c) requires all parking and vehicular traffic surfaces to be surfaced with concrete or bituminous pavement. Exceptions are only allowed if proposed surface generates the same (or less) dust than a paved surface. Code Enforcement will address any non-compliance through their normal procedures.

<u>Monitoring Program</u>: Code Enforcement shall be responsible for monitoring privately-owned parking lots.

Measure 32. Pave or stabilize existing public dirt roads and alleys

<u>Measure description</u>: The Town will continue to require paving of all public roads in the Town's jurisdiction. The Town Subdivision Ordinance requires public access, and therefore paved surfaces, to all properties prior to issuing a building permit.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Community Development Department, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule</u>: N/A. There are no existing dirt roads or alleys with traffic in excess of 50 vehicles per day.

Level of Personnel and Funding Allocated for Implementation: N/A.

Enforcement Program: N/A.

Monitoring Program: N/A.

Measure 33. Limit speeds to 15 miles per hour on high traffic dirt roads

Measure description: Dirt roads with traffic in excess of 50 vehicles per day.

Responsible Agency and Authority for Implementation: N/A

<u>Implementation Schedule</u>: N/A. There are no existing dirt roads with traffic in excess of 50 vehicles per day.

Level of Personnel and Funding Allocated for Implementation: N/A

Enforcement Program: N/A

Monitoring Program: N/A

Measure 35. Pave or stabilize unpaved shoulders

Measure description: The Town's unpaved shoulders will be stabilized with a dust control agent.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Public Works Department, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule</u>: There is an estimated 52 linear miles of unpaved shoulders in the Town limits. Stabilization of the full 52 miles will be phased in over the next 3 fiscal years.

Level of Personnel and Funding Allocated for Implementation: Funds of \$20,000 are included in the Town's 07/08 Budget to "contractually" stabilize the ten most heavily traveled miles of unpaved shoulders. It is anticipated that portions of the remaining 42 miles will be improved; however, funds of \$62,000 will be requested in the 08/09 Town Budget to "contractually" stabilize 31 miles of unpaved shoulders and \$104,000 will be requested in the 09/10 Town Budget to "contractually" stabilize 52 miles of unpaved shoulders.

Enforcement Program: N/A

<u>Monitoring Program</u>: The Streets Supervisor will monitor the application and the effectiveness of the dust control agent, and make arrangements for reapplication at needed intervals.

Measure 38. Restrict vehicular use on vacant lots

<u>Measure description</u>: The Town will continue to enforce Zoning Ordinance requirements pertaining to the restriction of parking and driving on unpaved surfaces.

Responsible Agency and Authority for Implementation: The Town of Queen Creek Community Development Department, through the authority granted to them by A.R.S. § 9-240.

Implementation Schedule: Code Enforcement staff will identify vehicular use and parking on vacant lots. Data will be gathered over the next 12 months to document cases where vehicular use and parking on vacant lots is taking place. If problem sites are identified, a recommended course of action/implementation plan will be submitted to the Town Council for approval no later than September 30, 2008. MAG will be notified of any plan(s) implementation.

<u>Level of Personnel and Funding Allocated for Implementation</u>: Code Enforcement personnel will perform monitoring activity during the normal course of their daily work activities.

<u>Enforcement Program</u>: Code Enforcement personnel will continue to meet with violators as this has proven to be effective.

<u>Monitoring Program</u>: Data will be gathered over the next 12 months to document cases where vehicular use and parking on vacant lots is taking place.

Measure 39. Enhanced enforcement of trespass ordinances and codes

<u>Measure description</u>: Queen Creek will monitor vehicular trespass activity from July 1, 2007 to June 30, 2007 to determine whether a problem exists.

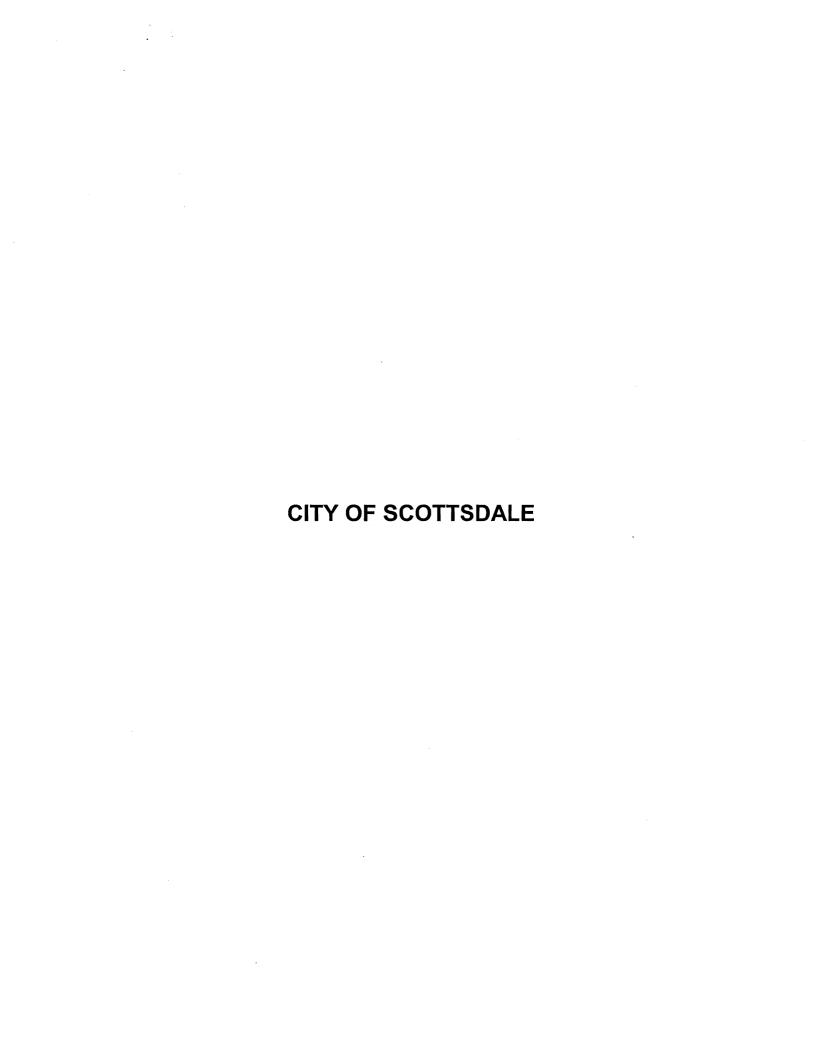
Responsible Agency and Authority for Implementation: The Town of Queen Creek Public Works Department, Community Development Department, and Parks and Recreation Department, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule</u>: Data will be gathered from July 1, 2007-June 30, 2008. If a problem exists, staff will develop a plan for review and approval by Town Council.

<u>Level of Personnel and Funding Allocated for Implementation</u>: Code Enforcement personnel will monitor unauthorized vehicular activity during the course of their normal work duties.

<u>Enforcement Program</u>: The Town does not have a municipal law enforcement division. Trespassing violations will be referred to the Maricopa County Sheriff's Office.

Monitoring Program: Code Enforcement staff will report violations of private trespass.



RESOLUTION NO. 7280

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY ARIZONA, AUTHORIZING IMPLEMENTATION OF MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NONATTAINMENT AREA

WHEREAS, the Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Area for PM-10 particulate matter according to the Clean Air Act; and

WHEREAS, the Five Percent Plan for PM-10 is required by the Clean Air Act since the Maricopa County nonattainment area failed to attain the PM-10 standard by December 31, 2006; and

WHEREAS, the plan is required to reduce PM-10 emissions by five (5) percent per year until the standard is met; and

WHEREAS, Arizona Revised Statutes 49-406(G) requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measure as provided in statute, ordinance, or rule; a program for enforcement of the measure; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale as follows:

<u>Section 1</u>. The City of Scottsdale agrees to proceed with a good faith effort to implement the measures identified in Exhibit A, which is incorporated herein by this reference.

Section 2. The City of Scottsdale commits to proceed with a good faith effort to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, the City agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 9th day of July, 2007.

ATTEST:

Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

Deborah W./Robberson, City Attorney

CITY OF SCOTTSDALE, an Arizona municipal corporation

Mary Manross Mayor

Exhibit A City of Scottsdale Commitments 2007 Five Percent Plan

1. Public Education and Outreach with Assistance from Local Governments

Measure Description:

This measure would involve publicity campaigns that increase public awareness of PM-10 air quality problem and discourage citizens from participating in activities that generate airborne dust.

Maricopa County is the lead agency for this publicity campaign, with cooperation from Valley Cities. The City of Scottsdale has received information from Maricopa County's construction site dust control campaign. That information continues to be distributed at the City's permit office (One Stop Shop). Other materials provided by the County and State, would be distributed as they become available.

The City could provide internal and external communications on particulates and other air quality issues, including how residents can avoid dust-generating activities. Examples of City internal and external communication publications include the employee electronic weekly newsletter (CityLine), the City's newsletter distributed in the municipal customer water bill (PRIDE), the City's various and appropriate electronic newsletters (Scottsdale Update, Scottsdale Update - Development Focus, Green Building Events), the City's internal electronic "High Pollution Advisory Notice", the City's website with links to the Arizona Department of Environmental Quality, Maricopa County Air Quality Department and possible other educational web sites.

If in the case of changes to the city's ordinances as they may pertain to dust control, the City's internal and external communications would reflect those changes and may include information about the use of leaf blowers, off-road vehicle use, speed limits reductions on unpaved roads, parking on unpaved lots, vehicular trespassing and the use of outdoor fireplaces.

<u>Units:</u> In 2007, the City received materials from the County's Construction Site Dust Control campaign for continued distribution at the City's One Stop Shop: 500 brochures. **Distribution Estimates:** Estimated circulation for City publications include: CityLine: ~2600 employees (weekly publication); Scottsdale Update: 3723 subscribers (weekly publication), Scottsdale Update - Development Focus: 4207 subscribers (second weekly publication), Green Building Events: 1692 subscribers (monthly publication); PRIDE, ~ 90,000 water customers (monthly publication); High Pollution Advisory Notice: ~2600 employees (periodic notifications).

The City's outreach awareness program could also include communications to the Scottsdale-based corporate communities, non-profit organizations, Chamber of Commerce and Convention and Visitor's Bureau.

Responsible Agency:

City of Scottsdale Office of Environment and Preservation Office of Communication & Public Affairs

Authority for Implementation:

A.R.S. Section 9-240: General Powers of Council Scottsdale City Charter, Article 13: General Provisions

<u>Implementation Schedule:</u>

Materials for the Maricopa County's Construction Site Dust Control campaign materials continue to be distributed. Distribution of other materials from the State, County and City would be distributed as they become available. Publication of air quality/particulate pollution information is on-going.

Level of Personnel and Funding Allocated for Implementation:

Outreach programs will be conducted within the operating budget for the Office of Environment and Preservation and/or Communications and Public Affairs.

Enforcement Program:

This is an administrative program that does not involve an Ordinance or Code. A.R.S., Section 49-406, grants Maricopa County Air Quality Department and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Non-attainment Area Plans.

Monitoring Program:

The City will submit progress reports to State and/or County agencies upon request.

2. Reduce Off-Road Vehicle Use in Areas with High Off-Road Vehicle Activity

<u>Measure Description</u>: This measure could involve development and enforcement of ordinances or implementation of other actions to prevent or discourage off-road vehicle use in the PM-10 non-attainment area.

Public and Private Property: City ordinances prohibit as unlawful vehicle use, including off-road vehicle use, on both public and private property.

- Unlawful vehicle use: Scottsdale City Code, Section 19-14 prohibits operating, driving or leaving a vehicle on any private or public property without the owner's written permission.
- Temporary/Security Fencing for vacant land: Scottsdale Zoning Ordinance, Section 7-700 establishes standards for temporary/security fencing for vacant land and other sites.
- **McDowell Sonoran Preserve:** Scottsdale City Code, Section 21-12 prohibits motor vehicle use except in designated parking areas.
- McDowell Sonoran Preserve: Scottsdale City Code, Section 21-11 defines "designated and posted" as appropriate signs or physical barriers to indicate areas closed to the public.
- **City Parks:** Scottsdale City Code, Section 17-126 prohibits parking in any city park except within the designated parking areas.

Responsible Agency and Authority for Implementation:

City of Scottsdale, Police Department

City of Scottsdale, Preservation Division

City of Scottsdale, Code Enforcement Division

City of Scottsdale, Parks and Recreation Division

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council Scottsdale City Charter, Article I, Sec. 3: Powers of City Scottsdale City Code, Sections 17,19, 21 various Scottsdale Zoning Ordinance, Section 7-700

Implementation Schedule:

On-going

Level of Personnel and Funding Allocated for Implementation:

Funding for enforcement is included in the annual operating budget for the departments and divisions listed above and is not listed as a separate budget allocation.

Enforcement Program:

The Police Department enforces traffic and unlawful vehicle use codes.

The City conducts enforcement of off-road vehicle activities in areas with high off-road vehicle use as problems are identified. Enforcement activities have been conducted within the McDowell Sonoran Preserve (MSP) owned by the city and in cooperation with the State Land Department for State Lands within

Scottsdale. The Scottsdale Police Department and Preservation Division staff enforce off-road vehicle activities in the MSP jointly.

Code Enforcement Division enforces vehicle for sale on unpaved areas prohibitions.

Parks and Recreation Division enforces the parking and vehicle use codes for city parks.

A.R.S., Section 49-406, grants Maricopa County Air Quality Department and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

The city will submit reports to state and/or county agencies upon request.

3. Sweep Streets with PM-10 Certified Street Sweepers

<u>Measure Description</u>: This measure would require all public paved roads in the PM-10 nonattainment area be swept with purchased or contracted PM-10 certified sweepers.

The City of Scottsdale Street Operations Division currently conducts all routine sweeping of City streets with eight (8) PM-10 certified sweepers. The city does not currently use contract services for routine street sweeping.

Responsible Agency and Authority for Implementation:
This measure will be implemented by the City of Scottsdale Street Operations
Division. Legal authority for this measure is provided under A.R.S. 9-240
General Powers of Common Council.

Implementation Schedule:

Ongoing. The city currently sweeps major streets weekly, downtown streets three times per week and residential streets with curbs every 5 to 6 weeks—all with PM-10 Certified Street Sweepers.

Level of Personnel and Funding Allocated for Implementation:

The city currently employs 10 motor sweeper drivers, who operate eight (8) PM-10 Certified Street Sweepers and two (2) smaller units that sweep paths, sidewalks and parking lots. The 2006/2007 Fiscal Year budget for paved street maintenance was \$1,056,912.

Enforcement Program:

The Municipal Services Department will oversee the implementation of this measure. Funding for replacement of equipment occurs in the fiscal year budget process.

Monitoring Program:

The city will submit progress reports to State and/or County agencies upon request. The city currently reports the PM-10 Certified Street Sweeping schedule on the city's web site, at www.ScottsdaleAZ.gov

4. Pave or Stabilize Existing Unpaved Parking Lots – Strengthen Enforcement

<u>Measure Description</u>: This measure would involve strengthening and proactively enforcing dust control rules or ordinances that reduce fugitive dust and PM-10 emissions from existing unpaved parking and vehicle maneuvering areas.

The City of Scottsdale Parking Lot Ordinance (S.R.C. Chapter 46, Article II, Sec. 46-16 and 46-17) requires paved parking for all lots of six (6) or more spaces. Section 46-18 Dust Control, specifies that for exceptions to the paving requirement, parking lot owners must use, control or maintain parking lots to ensure adequate dust control. Parking lot owners can be issued thirty (30) day written notices by the city manager for non-compliance with dust control.

The City of Scottsdale Basic Zoning Ordinance, Appendix B, Article IX, Sec. 9-103 requires unpaved parking lots to be upgraded to the paved parking lot standards as a condition for a building permit for expansion.

Responsible Agency and Authority for Implementation:

City of Scottsdale Planning and Development Department City of Scottsdale Code Enforcement Division

Authority for Implementation
A.R.S. Section 9-240, General Powers of Common Council.
Scottsdale City Charter, Article I, Sec. 3: Powers of City
Scottsdale Revised Code Chapter 46

Scottsdale Basic Zoning Ordinance, Appendix B, Article IX, Section 9-103

Implementation Schedule:

Ongoing.

Level of Personnel and Funding Allocated for Implementation:

The City of Scottsdale is adequately staffed and funded to implement the existing parking lot paving standard.

Enforcement Program:

The City of Scottsdale enforces parking lot paving standards and responds to nuisance complaints, including dust complaints, under existing ordinance authority. Currently, the city has approximately fifty (50) Code Enforcement, Planning, Public Works and Building Inspectors. When appropriate, referrals are made to Maricopa County Air Quality Department.

A.R.S., Section 49-406, grants Maricopa County Air Quality Department and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

The City will submit reports to state and/or county agencies upon request.

5. Pave or Stabilize Existing Public Dirt Roads and Alleys

<u>Measure Description</u>: This measure would revise County Rule 310.01 to require paving or stabilizing of public dirt roads that carry less than 150 vehicles per day (e.g. more than 50 vehicles per day).

The City of Scottsdale currently stabilizes approximately 13 miles of unpaved roads and 89 miles of alleys as part of the city's unpaved road grading and dust control program and the alley maintenance program. These figures represent about 35% of the total inventory of unpaved roads (approximately 41 miles) and 100% of the unpaved alleys in the city. Over the past five years, the city has paved approximately 9 miles of unpaved roads and <1 mile of alleys.

The city budgeted to continue maintenance and stabilization of unpaved alleys and stabilization of unpaved roads down to approximately 100 ADT for Fiscal Year 2007/2008.

In 1999, the City of Scottsdale developed and implemented plans to stabilize targeted unpaved roads, alleys and shoulders on targeted arterials. That plan has been revised in 2007 to prioritize unpaved roads with more than 100 average daily trips and unpaved shoulders on arterial roads and other road segments where vehicle use on unpaved shoulders is evident or anticipated due to projected traffic volume.

Responsible Agency and Authority for Implementation:

City of Scottsdale Municipal Services Department

City of Scottsdale Environmental and Preservation Office

Authority for Implementation
A.R.S., Section 9-240: General Powers of Council
A.R.S., Section 9-500.04 Air Quality Control
Scottsdale City Charter, Article I, Sec. 3: Powers of City
City of Scottsdale Design Standards and Policy Manual

Implementation Schedule:

Ongoing.

Level of Personnel and Funding Allocated for Implementation:

The City's Municipal Services Department is responsible for the planning, construction, repair and maintenance of city streets and alleys, and is adequately staffed to implement this measure. The budget for the current fiscal year is approximately \$300,000 for alley maintenance/dust control and \$910,000 for unpaved road maintenance/dust control. For the Fiscal Year 2007/2008 budget, \$50,000 was added to the existing unpaved road maintenance/dust control budget.

Enforcement Program:

The City's Municipal Services Department General Manager is responsible to implement this measure.

Monitoring Program:

The city will submit reports to state and/or county agencies upon request. Currently, the city maintains web pages detailing the unpaved roads and alleys dust control program, on the city's web site at www.ScottsdaleAZ.gov

6. Limit Speeds to 15 Miles Per Hour on High Traffic Dirt Roads

Measure Description: This measure would require 15 MPH speed signs to be posted on dirt roads in the PM-10 nonattainment area that carry high traffic (e.g. 50-150 vehicles per day).

The City of Scottsdale will lower the speed limit to no lower than 15 MPH on unpaved roads with 100 ADT (average daily traffic) or more during Fiscal Year 2007/2008. Currently, the city estimates that this will effect speed limits on approximately 15 miles of unpaved roads. Appropriate speed limit signs will be posted on unpaved roads as applicable. The Scottsdale Police Department enforces speed limits throughout the city.

Responsible Agency and Authority for Implementation:

City of Scottsdale Transportation General Manager City of Scottsdale Police Department

Authority for Implementation:

A.R.S., Section 9-240: General Powers of Council

A.R.S., Section 28-626, Uniform Application of Laws throughout the State

A.R.S., Section 28-627, Powers of Local Authorities

A.R.S., Section 28-703, Alteration of Speed Limit by Local Authority

Scottsdale City Charter, Article I, Sec. 3: Powers of City

Scottsdale Revised Code, Chapter 17, Article XXI, Section 17-1001

Implementation Schedule:

During Fiscal Year 2007/2008, speed limits on unpaved roads will be altered.

Level of Personnel and Funding Allocated for Implementation:

Funding for implementation and enforcement is included in the annual operating budget for the departments listed above and is not listed as a separate budget allocation.

Enforcement Program:

The Police Department enforces traffic laws.

Monitoring Program:

The city will submit reports to state and/or county agencies upon request.

7. Pave or Stabilize Unpaved Shoulders

Measure Description: this measure would require paving or stabilizing dirt shoulders on paved public roads that carry high level of traffic (e.g. more than 2,000 vehicles or 50 heavy duty trucks per weekday)

A.R.S. 9-500.04 required cities and towns located in the Maricopa County Nonattainment Area to develop and implement plans to stabilize targeted unpaved roads, alleys and stabilize unpaved shoulders on targeted arterials beginning January 1, 2000. The plans addressed performance goals, criteria for targeting the roads, alleys, and shoulders, a schedule for implementation, funding options and reporting requirements. The City of Scottsdale developed and implemented its plan in 1999 and currently complies with that plan's requirements.

The City will revise its current plan to place priority on unpaved roads with more than 100 ADT and unpaved shoulders on arterial roads and other road segments where vehicle use on unpaved shoulders is evident or anticipated due to projected traffic volume.

The City of Scottsdale added approximately 6 lane miles of paved shoulders, in the form of bike lanes that are at least four feet wide, to the inventory of 24 lane miles of paved shoulders/bike paths, during the past five years. The city will stabilize approximately 85 miles of unpaved shoulders, approximately three times in Fiscal Year 2007/2008.

Responsible Agency and Authority for Implementation:

City of Scottsdale Municipal Services Department
City of Scottsdale Environmental and Preservation Office

Authority for Implementation:

A.R.S. Section 9-240, General Powers of Common Council A.R.S., Section 9-500.04 Air Quality Control Scottsdale City Charter, Article I, Sec. 3: Powers of City City of Scottsdale Design Standards and Policy Manual

Implementation Schedule:

The City will revise its plan to begin implementation in Fiscal Year 2007/2008. Approximately 85 lane miles of unpaved shoulders will be stabilized using dust palliatives up to three times during Fiscal Year 2007/2008.

Level of Personnel and Funding Allocated for Implementation:

The City's Municipal Services Department General Manager is responsible for maintaining unpaved shoulders. For Fiscal Year 2007/2008, the City of Scottsdale has budgeted \$390,000 to reduce particulate pollution by stabilizing unpaved shoulders on approximately 85 lane miles of arterials.

Enforcement Program:

The City's Municipal Services Department General Manager is responsible to implement this measure.

Monitoring Program:

The city will submit reports to state and/or county agencies upon request.

8. Restrict Vehicular Use and Parking on Vacant Lots

Measure Description: This measure would strengthen existing rules and ordinances that prohibit vehicle trespass on vacant land.

Public and Private Property: City ordinances prohibit as unlawful, vehicle use on both public and private property.

- Unlawful vehicle use: Scottsdale City Code, Section 19-14 prohibits operating, driving or leaving a vehicle on any private or public property without the owner's written permission.
- Temporary/Security Fencing for vacant land: On March 6, 2007 the City Council approved 9-TA-2007, which established procedures and standards regarding the use of temporary/security fencing on vacant lots and other sites.

For Sale vehicle parking: Scottsdale City Code, Section 17-111.1 says that "No person shall park or permit to be parked any motor vehicle for the purpose of sale upon any lot or area within the city which is unpaved."

Responsible Agency and Authority for Implementation:

City of Scottsdale, Police Department

City of Scottsdale, Code Enforcement Division

City of Scottsdale, Environmental and Preservation Office

Authority for Implementation
A.R.S., Section 9-240: General Powers of Council
Scottsdale City Charter, Article I, Sec. 3: Powers of City
Scottsdale City Code, Sections 17,19 various
Scottsdale Zoning Ordinance, Section 7-700

Implementation Schedule:

On-going

Level of Personnel and Funding Allocated for Implementation: Funding for enforcement is included in the annual operating budget for the departments listed above and is not listed as a separate budget allocation.

Enforcement Program:

The Police Department enforces traffic, parking and unlawful vehicle use codes.

Code Enforcement Division inspectors enforce vehicle for sale on unpaved areas prohibitions. For Fiscal Year 2007/2008 there are 11 Code Enforcement inspectors, 3 specialists and a manager. A portion of each inspector's duties is dust control and vacant lot enforcement.

The Environmental and Preservation Office receives citizen complaints regarding dust control on vacant lots via the Environmental Hotline and electronic reports on the city's web site. Complaints are forwarded to the appropriate inspectors for enforcement.

A.R.S., Section 49-406, grants Maricopa County Air Quality Department and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

Code Enforcement inspectors and the Environmental Office will record and track the number of dust control complaints, including those related to vacant lots. The city will submit reports to state and/or county agencies upon request.

9. Enhanced Enforcement of Trespass Ordinances and Codes

<u>Measure Description</u>: this measure would increase the enforcement of vehicle trespass ordinances and codes for vacant lots.

Scottsdale City Code, Section 17-111.1 says that "No person shall park or permit to be parked any motor vehicle for the purpose of sale upon any lot or area within the city which is unpaved."

On March 6, 2007 the City Council approved 9-TA-2007, which established procedures and standards regarding the use of temporary/security fencing on vacant lots and other sites.

City ordinances prohibit as unlawful, vehicle use on both public and private property, which includes vacant lots.

Scottsdale City Code, Section 19-14 prohibits operating, driving or leaving a vehicle on any private or public property without the owner's written permission.

Responsible Agency and Authority for Implementation:

City of Scottsdale, Police Department

City of Scottsdale, Code Enforcement Division

City of Scottsdale, Planning and Development Services Department

City of Scottsdale, Environmental and Preservation Office

Authority for Implementation

A.R.S., Section 9-240: General Powers of Council Scottsdale City Charter, Article I, Sec. 3: Powers of City Scottsdale City Code, Sections 17,19 various Scottsdale Zoning Ordinance, Section 7-700

Implementation Schedule:

On-going

Level of Personnel and Funding Allocated for Implementation: Funding for enforcement is included in the annual operating budget for the departments listed above, and is not listed as a separate budget allocation.

Enforcement Program:

The Police Department enforces parking, traffic and unlawful vehicle use codes.

Code Enforcement Division inspectors enforce vehicle for sale on unpaved areas prohibitions. For Fiscal Year 2007/2008 there are 11 Code Enforcement inspectors, 3 specialists and a manager. A portion of each inspector's duties is dust control and vacant lot enforcement.

Planning and Development Services Department inspectors enforce temporary/security fencing requirements. For Fiscal Year 2007/2008 there are 31 Planning and Development Services inspectors (Public Works, Planning and Building inspectors) and 3 managers. A portion of each inspector's duties is dust control and vacant lot enforcement.

The Environmental and Preservation Office receives citizen complaints regarding dust via the Environmental Hotline and electronic reports on the city's web site. Complaints are forwarded to the appropriate inspectors for enforcement.

A.R.S., Section 49-406, grants Maricopa County Air Quality Department and the Arizona Department of Environmental Quality the authority to enforce measures defined in the Nonattainment Area Plans.

Monitoring Program:

City inspectors and the Environmental Office will record and track the number of dust control complaints, including those related to vacant lots.

The city will submit reports to state and/or county agencies upon request.

CITY OF SURPRISE

RESOLUTION 07 - 95

RESOLUTION TO IMPLEMENT MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NONATTAINMENT AREA

WHEREAS, the Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona, as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Area for PM-10 particulate matter according to the Clean Air Act; and

WHEREAS, the Five Percent Plan for PM-10 is required by the Clean Air Act since the Maricona County nonattainment area failed to attain the PM-10 standard by December 31.2006; and

WHEREAS, the plan is required to reduce PM-10 emissions by five percent per year until the standard is met; and

WHEREAS, Arizona Revised Statutes 49-406 G. requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measure as provided in statute, ordinance, or rule; a program for enforcement of the measures; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF SURPRISE as follows:

SECTION 1. That the Council of the City of Surprise agrees to proceed with a good faith effort to implement the measures identified in Exhibit A which is part of this resolution.

SECTION 2. That the Council of the City of Surprise commits to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, the City of Surprise agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

PASSED AND ADOPTED by the Mayor and Council of the City of Surprise, Arizona this 12th day of July 2007.

City Attorney

APPROVED AS TO FORM:

-1-

Exhibit A to the Resolution 07-95

Measure: Public Education and Outreach: Assistance from Local Governments

MAG 2007 Reference: #1

Measure Description:

The City of Surprise will develop a program using outreach materials from the Maricopa County Bring Back the Blue campaign and distribute at City libraries. Other materials provided by the County and State, will be distributed as they become available.

The City of Surprise will publish articles on particulates and other air quality issues, including information to encourage residents to avoid dust-generating activities. The outreach efforts will also address the proper use of leaf blowers. Examples of City publications include the Surprise Progress, www.surpriseaz.com and the intranet (insidesurprise).

Units:

Unknown at this time, will develop projections when organizing the program

Responsible Agency and Authority for Implementation:

City of Surprise, Communications and Public Works departments

Implementation Schedule:

Materials for the Maricopa County Bring Back the Blue campaign materials will be distributed by March 2008. Distribution of other materials from the State and County will be distributed, as they become available. Publication of air quality/particulate pollution articles and website information is on-going.

Level of Personnel and Funding Allocated for Implementation:

Outreach programs will be conducted within the Communications and Public Works department's operational budgets.

Enforcement Program:

This is an administrative program which does not require or involve an Ordinance or Code.

Monitoring Program:

The City will submit reports upon request of State and/or County agencies.

Measure: Reduce Off-Road Vehicle Use in Areas with High Off-Road Vehicle Activity

MAG 2007 Reference: #22

Measure Description:

No later than March 31, 2008, the City of Surprise will adopt, implement and enforce an ordinance that prohibits the operation of any vehicle, including an off-highway vehicle, all-terrain vehicle or an off-road recreational motor vehicle, on an unpaved surface that is not a public or private road, street or lawful easement and that is closed by the landowner by rule or regulation of a federal agency, this state, a county or the City of Surprise or by proper posting if the land is private land.

Units:

An estimated thirty square miles will be addressed under this measure.

Responsible Agency and Authority for Implementation:

City Police Department, City Community Development Department, Code Enforcement Division, City Council

Implementation Schedule:

This measure will be adopted, implemented and enforced by March 31, 2008.

Level of Personnel and Funding Allocated for Implementation:

Funding for enforcement is included in the annual operating budget for the aforementioned departments/divisions and is not itemized as a separate budget allocation.

Enforcement Program:

Once written and implemented the following departments will be responsible for implementation: City Police Department, City Community Development Department, Code Enforcement Division

Monitoring Program:

The City will submit reports upon request of State and/or County agencies.

Measure: Sweep Streets with PM-10 Certified Street Sweepers

MAG 2007 Reference: #29

Measure Description:

The Streets Division of the Public Works Department currently utilizes PM-10 certified sweepers for all routine sweeping performed throughout the city. The City does not use contract services for street sweeping.

One street sweeper will be purchased in FY08 funded by a MAG grant with a local match. Below is a current replacement schedule for street sweepers as determined by the Fleet Division of the Public Works Department.

Asset#	Date Acquired	Replace Yr	Division
2730	FY2002	FY2008	2002 Sterling/Schwa 7000
2644	FY2002	FY2012	2001 Sterling/Schwa 8000
3012	FY2005	FY2015	2004 Sterling/Schwa 7000
3013	FY2005	FY2015	2004 Sterling/Schwa 7000
3241	FY2006	FY2016	2005 Sterling/Schwa 7000
3242	FY2006	FY2016	2005 Sterling/Schwa 7000
3032	FY2006	FY2016	2006 Sterling/Schwa 7000

Units:

During FY07 the City swept approximately 12,904 lane miles of streets. This number is expected to increase as the City continues to grow.

Responsible Agency and Authority for Implementation:

City of Surprise Public Works Department, Streets Division

Implementation Schedule:

Two sweepers in FY08 (one grant funded, one replacement), one sweeper in FY12, two sweepers in FY15, three sweepers in FY16.

Level of Personnel and Funding Allocated for Implementation:

Estimated costs of new sweepers in FY08 are as follows:

Approximate Total cost: \$420,000 MAG Sweeper Grant: \$185,000

Local Match: \$15,000

City of Surprise Capital Funding: \$210,000

Enforcement Program:

A.R.S., Section 49-406, grants authority to Maricopa County and Arizona Department of Environmental Quality to enforce measures as defined in Nonattainment Area Plans.

Monitoring Program:

The City will provide reports to State and/or County agencies upon request.

Measure: Pave or Stabilize Existing Unpaved Parking Lots

MAG 2007 Reference: #31

Measure Description:

Parking standards are addressed through Zoning Ordinances (Chapter 17) of the City of Surprise Municipal Code Book.

Zoning Code-Off-Street Parking Requirements-City Code Section 17.32.080 B (12) requires all areas intended to be utilized for parking space and driveways shall be paved with materials suitable to control dust and drainage.

Units:

Schedule for adopting more stringent parking codes/annual resources budgeted to enforce the more stringent parking code

Responsible Agency and Authority for Implementation:

City Community Development Department, Code Enforcement and Planning Divisions

Implementation Schedule:

On-going

Level of Personnel and Funding Allocated for Implementation:

Funding for the Community Development Department, Code Enforcement Division tasks are included in the annual operating budget and is not listed as a separate allocation.

Enforcement Program:

The Community Development Department, Planning Division Administers the Zoning Code.

A.R.S., Section 49-406, grants Maricopa County and Arizona Department of Environmental Quality the authority to enforce measures defined in Nonattainment Area Plans.

Monitoring Program:

Measure: Pave or Stabilize Unpaved Existing Public Dirt Roads and Alleys MAG 2007 Reference: #32

Measure Description:

Roads: The City has no dedicated City-owned dirt roads.

Alleys: The City will apply dust-proof prevention materials on approximately 3.1 miles of unpaved alleys.

Responsible Agency and Authority for Implementation:

City of Surprise Public Works Department, Streets Division

Implementation Schedule:

The stabilization plan for alleys and roads will be updated by January 1, 2008.

Level of Personnel and Funding Allocated for Implementation:

Funding will be provided through the 10 % set aside fund/or Public Works Department, Streets Division budget. Approximately \$65,000 will be spent to apply a dust-proof material on City alleys.

Enforcement Program:

City of Surprise Community Development, Planning Department and City of Surprise Engineering Department enforce the street standards for new roads.

Monitoring Program:

Measure: Pave or Stabilize Unpaved Shoulders

MAG 2007 Reference: #35

Measure Description:

The City of Surprise, beginning on January 1, 2008, will develop and implement plans to stabilize targeted unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting the shoulders, a schedule for implementation, funding options and reporting requirements. Priority shall be given to unpaved shoulders on arterial roads and other road segments where vehicle use on unpaved shoulders is evident or anticipated due to projected traffic volume.

Units:

Stabilization is targeted for 9.1 miles of shoulders includes asphalt, rock or other treatments on shoulders as well as curbs and gutters.

Responsible Agency and Authority for Implementation:

City Public Works Department, Streets Division

Implementation Schedule:

Work will begin in FY09 4 miles of shoulder and continue each year

Level of Personnel and Funding Allocated for Implementation:

No new personnel are anticipated. Estimated cost of shoulder stabilization is \$150,000. This work will be funded through the City of Surprise

(Arterial Street Assessment Fee established to pave half street pavements and recover cost once the adjacent property in developed)

Enforcement Program:

City of Surprise Community Development and Engineering Departments enforce streets standards for new roads including shoulders.

A.R.S., Section 49-406, grants Maricopa County and Arizona Department of Environmental Quality the authority to enforce measures defined in the Non-attainment Area Plans.

Monitoring Program:

Measure: Restrict Vehicle Use and Parking on Vacant Lots

MAG 2007 Reference: #38

Measure Description:

The City of Surprise, no later than March 31, 2008, will adopt or amend codes or ordinances as necessary to restrict vehicle parking and use on unpaved or unstabilized vacant lots.

Units:

See above for schedule for adopting a new ordinance on vehicle use or parking on vacant lands

Responsible Agency and Authority for Implementation:

City Community Development Department, Code Enforcement Division. City Police Department

Implementation Schedule:

See above

Level of Personnel and Funding Allocated for Implementation:

Funding for these tasks is included in the annual operating budget for each responsible department.

Enforcement Program:

Once codes/ordinances are written and implanted, the following city departments will be responsible for enforcement: City Police Department, City Community Development Department, Code Enforcement Division

Monitoring Program:

Measure: Enhanced Enforcement of Trespass Ordinances and Codes

MAG 2007 Reference: #39

Measure Description:

The City of Surprise, no later than March 31, 2008 will adopt or amend codes or ordinances as necessary to restrict vehicle parking and use on unpaved or unstabilized vacant lots.

Units:

See above for implementation of this measure

Responsible Agency and Authority for Implementation:

City Police Department, City Community Development Department, Code Enforcement Division

Implementation Schedule:

See above

Level of Personnel and Funding Allocated for Implementation:

Funding for these tasks is included in the annual operating budget for each responsible department.

Enforcement Program:

City Police Department, City Community Development Department, Code Enforcement Division

Monitoring Program:

Measure: Discourage the Use of Leaf Blowers

MAG Reference: None

Measure Description:

Beginning March 31, 2008 the City of Surprise, on any high pollution advisory day forecast by the Department of Environmental Quality, will prohibit employees or contractors of that city or town from operating leaf blowers except while in vacuum mode and prohibit those employees or contractors from blowing landscape debris into public roadways at any time. Further, the City no later than March 31, 2008, will adopt, implement and enforce an ordinance that bans the blowing of landscape debris into public roadways at any time by any person.

Implementing Agency or City Department:

City Community Recreation Services Department, other City Departments as necessary

Personnel and/or Funding:

Restricted use of leaf blowers by City staff or contracted employees does not require additional staff or resources.

Enforcement Program:

Field staff supervisors are responsible for oversight of leaf blower use by City staff and landscape maintenance contractors.

Monitoring Program:



Public Works Department

12425 West Bell Road

Suite D-100

Surprise, Arizona 85374-9002

October 23, 2007

Lindy Bauer
Environmental Director
Maricopa Association of Governments
302 N. 1st Avenue, Suite 300
Phoenix, Arizona 85003

Dear Ms Bauer:

This letter is in response to your recent inquiry regarding the PM-10 5% Plan recently adopted by the City of Surprise.

Maricopa Association of Governments

OCT 2 4 2007

The City of Surprise did not include Measure 33 within resolution 05-95 due to the fact that this measure would require 15 mph speed limit signs to be posted on dirt roads in the PM-10 non-attainment area that carry high traffic (e.g., 50-150 vehicles per day). County, local governments

The City of Surprise does not have any unimproved, dedicated dirt roads within its jurisdiction which meet this criterion.

Should you have additional questions or need further clarification regarding this issue, please do not hesitate to contact me at the number listed below.

Sincerely,

Robert Beckley

Public Works Director

(623) 222-6021

CITY OF TEMPE

RESOLUTION NO. 2007.54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, TO IMPLEMENT PM-10 DUST CONTROL MEASURES.

WHEREAS, the Maricopa County air quality non-attainment area has been classified as a Serious Area for PM-10 particulate matter; and

WHEREAS, the Maricopa Association of Governments has determined that its member agencies must implement additional measures to control dust in the non-attainment area so that the combined measures will achieve a five percent annual PM-10 emissions reduction until the area is in attainment with federal air quality standards; and

WHEREAS, the City of Tempe has the authority to adopt the measures described in Attachment A under Article 13, Section 2 of the Arizona Constitution, Title 9 of the Arizona Revised Statutes, and the Tempe City Charter; and

WHEREAS, under A.R.S. Section 49-406(G) each agency that commits to implement a control measure must describe that commitment in a resolution adopted by the governing body, specifying its authority for implementing the measure, the enforcement program, and the level of personnel and funding allocated to implementing the measure; and

WHEREAS, the City of Tempe desires to commit itself to implementing certain dust control measures identified in Attachment A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That the Mayor and City Council of the City of Tempe commit the City of Tempe to implement the PM-10 control measures as described in Attachment A to this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this <u>28th</u>day of <u>June</u>, 2007.

APPROVED AS TO FORM:

City Attorney

ATTACHMENT A

<u>CITY OF TEMPE PLAN FOR IMPLEMENTING PM-10 DUST CONTROL</u> <u>MEASURES</u>

1. Measure Title: Public Education and outreach to increase public awareness – MAG reference #1.

Measure Description: Distribute information materials received from the State and County, (e.g. Bring Back the Blue) at city libraries or through broadcast on Channel 11 as professionally made broadcast material is made available to the City.

Include information on particulate matter in city environmental publications and newsletters distributed with the water bill.

Responsible Agency and Authority for Implementation: The Water Utilities Department (Environmental Services Division) in cooperation with the City of Tempe's Community Services Administration, Community Relations Department, Communications & Media Relations Department.

<u>Implementation Schedule</u>: Distribution of materials from the State and County as materials are made available.

<u>Level of Personnel and Funding Allocated for Implementation</u>: The measure can be implemented within personnel and funding available in the City's 2006-07 and 2007-08 operating budgets, and would be considered in budget planning for 2008-09.

<u>Enforcement Program</u>: The City's Water Utilities Department (Environmental Services Division) will distribute materials and coordinate participation from other city departments to implement this measure.

<u>Monitoring Program</u>: The City will submit progress reports on measure implementation to the MCESD, ADEQ or MAG upon request.

2. Measure Title: Sweep Streets With PM-10 Certified Street Sweepers – MAG reference #29.

Measure Description: The City of Tempe's entire fleet of street sweepers is PM-10 certified. Arterial streets are swept every 8-12 days; residential streets are swept monthly. In September 2004, the Tempe City Council adopted Resolution No. 2004.84 to implement measures to reduce re-entrained dust emissions from targeted paved roads in the revised PM-10 State Implementation Plan for the Salt River Area. One of the measures in the re-entrained dust emission control implementation plan included the following strategies:

- Response based street sweeping in heavy dust areas caused by construction work or other situations.
- Increased street sweeping frequencies on arterial or major collector streets when excessive dust situations have been identified.
- Increased street sweeping frequencies in areas when indicated as necessary by air quality monitoring data.

The City of Tempe is currently reviewing all development projects underway in the city limits, and will pursue a requirement that all contracted street sweeping on city streets be done with PM-10 certified sweepers.

Responsible Agency and Authority for Implementation: The City of Tempe's Public Works Department (Field Operations Division) is responsible for implementing this measure.

<u>Implementation Schedule</u>: The work and strategies described above are underway and will continue. Staff will review all development projects underway, and will plan to have a PM-10 street sweeping requirement in place in all construction contracts by June, 2008.

Level of Personnel and Funding Allocated for Implementation: Adequate funding is provided in the City's 2006-07 and 2007-08 operating budgets to accomplish this measure. Any additional requirements or increased street sweeping frequencies would require additional funding, which would be considered in budget planning for 2008-09.

Enforcement Program: The City's Water Utilities Department (Environmental Services Division) enforces excessive track out situations on private developments, and works closely with the Public Works Department on air quality requirements. Maricopa County and ADEQ also have enforcement authority over non-attainment area plans.

<u>Monitoring Program</u>: The City of Tempe will monitor its street sweeping programs in relation to its air quality commitments.

<u>Copy of Ordinance, Rule or Regulation</u>: City of Tempe Resolution No. 2004.84 – To implement measures to reduce re-entrained dust emissions from targeted paved roads in the revised PM-10 State Implementation Plan for the Salt River Area.

3. Measure Title: Unpaved Parking Lots – MAG reference #31.

Measure Description: Implementing this measure will involve strengthening dust control activities and enforcement of existing dust control laws and rules on publicly and privately owned parking lots and vehicle maneuvering areas. The City of Tempe will commit to the following:

 Prepare an inventory of all unpaved city owned parking lots and vehicle maneuvering areas.

- Develop a plan to pave, stabilize, and/or restrict vehicular access to these areas, in compliance with applicable federal, state, county and local dust control rules and regulations.
- Review current parking ordinances; amend existing ordinances or create a new ordinance as necessary to prohibit vehicle parking or vehicle use on unstabilized parking lots.

<u>Responsible Agency and Authority for Implementation</u>: City of Tempe Development Services and Public Works departments.

<u>Implementation Schedule</u>: The inventory of unpaved parking lots as described above will be completed within six months of City Council approval of these measures. The ordinance and city code review will be completed in twelve months of City Council approval of these measures.

Level of Personnel and Funding Allocated for Implementation: The staffing level for implementing the measure as described above is adequate. For the City's commitment to paving, stabilizing, and/or restricting vehicular access to its unpaved parking lots/vehicular maneuvering areas, the Public Works Department will do the following:

- Examine existing operating and capital funds to determine what work can be done with existing funding.
- Prepare budget requests as necessary for consideration during the budget processes for fiscal years 2008-09 and 2009-10.

<u>Enforcement Program</u>: Enforcement of vehicle parking codes is the responsibility of the City's Development Services Department.

Monitoring Program: Code violations and compliance information are tracked by the Development Services Department. Information and data will be provided to the state and county upon request.

Copy of Ordinance, Rule or Regulation:

Parking on vacant lots is addressed in the Zoning and Development Code as follows:

Chapter 6, Section 4-602, B. Parking Standards Applicable in All Zoning Districts

2. Parking is allowed only on paved parking surfaces. Pavement may be concrete, asphalt, or a porous material approved by the Development Services Manager, or designee. Where decomposed granite or similar porous pavement is used, it shall conform to ADA guidelines and the parking lot entrance(s) and exit(s) shall have tire cleaning strips to remove loose particles from the tires of vehicles.

4. Measure Title: Pave or Stabilize Existing dirt roads and alleys (less than 150 and more than 50 vehicles per day) – MAG reference # 32.

Measure Description: The City of Tempe's street system is comprised of 473 center line miles of arterial (88 miles), local (308 miles), collector (41 miles), industrial (35 miles) and unimproved (.9 miles). Staff will identify the less than one mile of roadway that requires stabilizing and pave or stabilize as appropriate.

The City's alley system is comprised of approximately 165 miles of unpaved alleys, and approximately 15 miles of paved alleys. Since February 2003 the City has stabilized, with recycled asphalt, approximately 25 miles of the unpaved alleys. Staff indicates that all remaining unpaved alleys experience significantly less than 50 vehicle trips per day. However, a staff analysis will be underway within sixty days to conduct traffic counts on a random sample of our unpaved alleys to verify that assumption. By city ordinance, all city alleys that are used to access parking are to be dustproofed. The majority of our alleys are used for public utility easements and are not used for transportation purposes.

<u>Responsible Agency and Authority for Implementation</u>: The City of Tempe's Public Works Department is responsible for implementing this measure.

<u>Implementation Schedule</u>: The less than one center line mile of unimproved roadway will be stabilized or paved during fiscal year 2007-08. If the traffic count analysis identifies alleys that exceed 50 vehicle trips per day, these alleys will be a high priority and will be scheduled for stabilization beginning in 2007-08.

<u>Level of Personnel and Funding Allocated for Implementation</u>: Adequate resources exist in the City's operating and CIP budget to meet the schedule indicated above.

<u>Enforcement Program</u>: Maricopa County and ADEQ have the authority to enforce measures identified in the non-attainment area plans.

Monitoring Program: The City of Tempe Public Works Department will monitor progress toward meeting this commitment, and will submit progress reports on measure implementation to the MCESD, ADEQ or MAG upon request.

Copy of Ordinance, Rule or Regulation:

Sec. 29-3. Dustproofing alleys.

(a) All alleys used by vehicular traffic for access to abutting parking areas within the city shall be maintained in a dust-free condition by the using property owners. Upon the failure of using property owners to properly maintain an alley in a dust-free condition, the city manager may recommend to the city council that a particular alleyway or portion thereof be dustproofed at the expense of those abutting property owners using the alley for access to their parking areas. Upon approval by the city council, the city manager shall send or cause to be sent a written notice by certified mail to the owners of

record adjacent to such alley or portion thereof to abate the condition. If such owners of record to whom written notice has been sent neglect, fail or refuse for more than sixty (60) days from the date of mailing such notice to dustproof such alley or portion thereof to the satisfaction of the public works manager, the city council may direct the city manager to cause the alley to be dustproofed and to charge the abutting property owners using the alley for vehicular access to their property, such charge to be prorated on a frontage basis.

(b) Within thirty (30) days after the necessary dustproofing has been completed and the cost of same determined by the city, the public works manager shall send written notice to the abutting property owners of their pro rata share of the cost of such dustproofing.

5. Measure Title: Limit speeds to 15 miles per hour on high traffic dirt roads – MAG reference #33.

Measure Description: This measure requires 15 mph speed limit signs to be posted on dirt roads in the PM-10 non-attainment area that carry high traffic.

<u>Responsible Agency and Authority for Implementation</u>: The City's Public Works and Development Services departments are responsible for implementing this measure.

<u>Implementation Schedule</u>: There are no roads or plans for new roads inside the Tempe city limits that meet the conditions for implementing this measure.

Level of Personnel and Funding Allocated for Implementation: Not applicable.

<u>Enforcement Program</u>: Maricopa County and ADEQ have the authority to enforce measures identified in the non-attainment area plans.

<u>Monitoring Program</u>: The City will provide progress reports on measure implementation to the MCESD, ADEQ or MAG upon request.

6. Measure Title: Pave or Stabilize Unpaved Shoulders – MAG reference #35.

Measure Description: As defined by MAG, this measure requires paving or stabilizing dirt shoulders on paved public roads that carry a high level of traffic (more than 2,000 vehicles or 50 heavy duty trucks per average weekday). There are currently approximately 2.4 miles of unpaved shoulders within the Tempe city limits. As development and redevelopment progresses, roadways, sidewalks, curbs and gutters will be required and built to city standards.

<u>Responsible Agency and Authority for Implementation</u>: The City's Public Works and Development Services departments are responsible for implementing this measure.

Implementation Schedule: Staff will develop a plan over the next twelve months to address the small amount of unpaved shoulders in the city. Plan development will include evaluating these areas for the following criteria: development plans for the near future, current level of stabilization and restriction from vehicle access, and feasibility for immediate paving or stabilization.

Level of Personnel and Funding Allocated for Implementation: In terms of assuring appropriate roadway infrastructure construction as it relates to development and redevelopment in Tempe, the staffing and funding levels are in place and adequate. In addition, funding has been authorized to stabilize or pave public rights of way which have the potential of generating a level of dust not in compliance with current Maricopa County air quality standards. If necessary, staff will develop budget requests and/or CMAQ grant funding requests for 2008-09 or 2009-2010 to build sufficient infrastructure for elimination of the unpaved shoulders.

<u>Enforcement Program</u>: Maricopa County and ADEQ have the authority to enforce measures identified in the non-attainment area plans.

Monitoring Program: The City's development process, as implemented by the Development Services and Public Works departments, serves as the monitoring mechanism for this measure. Additionally, the Public Works Department and the Water Utilities Department's Environmental Services Division will work together to identify and abate potential non-compliant dust concerns associated with vehicle traffic. The City will submit progress reports on measure implementation to the MCESD, ADEQ or MAG upon request.

7. Measure Title: Restrict vehicular use and parking on vacant lots – MAG reference #38.

Measure Description: This measure strengthens existing rules and ordinances that restrict parking and vehicular movement on vacant lots. The City will review its parking and zoning ordinances and will amend and clarify existing ordinances as necessary to prevent vehicle use on or across any portion of a vacant lot other than on an established dustproof driveway. If the review indicates the need for a separate ordinance related to operating vehicles and parking on non dust free lots, staff will follow City procedure for developing the ordinance and obtaining city council approval.

Responsible Agency and Authority for Implementation: City of Tempe Development Services and Public Works Departments.

<u>Implementation Schedule</u>: The ordinance and city code review will be completed in twelve months of City Council approval and adoption of the plan to implement these measures.

Level of Personnel and Funding Allocated for Implementation: The staffing level for implementing the measure as described above is adequate. For the City's commitment to restricting vehicular access to unpaved lots within the Tempe city limits, the Development Services Department and Public Works Department will do the following:

- Prepare an inventory of city owned vacant lots and accessible property.
- Evaluate each lot in terms of access restriction and paving/stabilization strategies.
- Prepare budget requests as necessary for consideration during the budget processes for fiscal years 2008-09 and 2009-10.

<u>Enforcement Program</u>: Enforcement of vehicle parking codes is the responsibility of the City's Development Services Department.

Monitoring Program: Code violations and compliance information are tracked by the Development Services Department. Information and data will be provided on measure implementation to the MCESD, ADEQ or MAG upon request.

<u>Copy of Ordinance, Rule or Regulation</u>: Parking on vacant lots is addressed in the Zoning and Development Code as follows:

Chapter 6, Section 4-602, B. Parking Standards Applicable in All Zoning Districts

2. Parking is allowed only on paved parking surfaces. Pavement may be concrete, asphalt, or a porous material approved by the Development Services Manager, or designee. Where decomposed granite or similar porous pavement is used, it shall conform to ADA guidelines and the parking lot entrance(s) and exit(s) shall have tire cleaning strips to remove loose particles from the tires of vehicles.

8. Measure Title: Enhanced enforcement of trespass ordinances and codes—MAG reference #39.

<u>Measure Description</u>: This measure would strengthen enforcement of vehicle trespass ordinances. The City will, in connection with the implementation of committed control measures for parking and vehicle use on vacant lots, undertake a resource review to secure effective trespass enforcement.

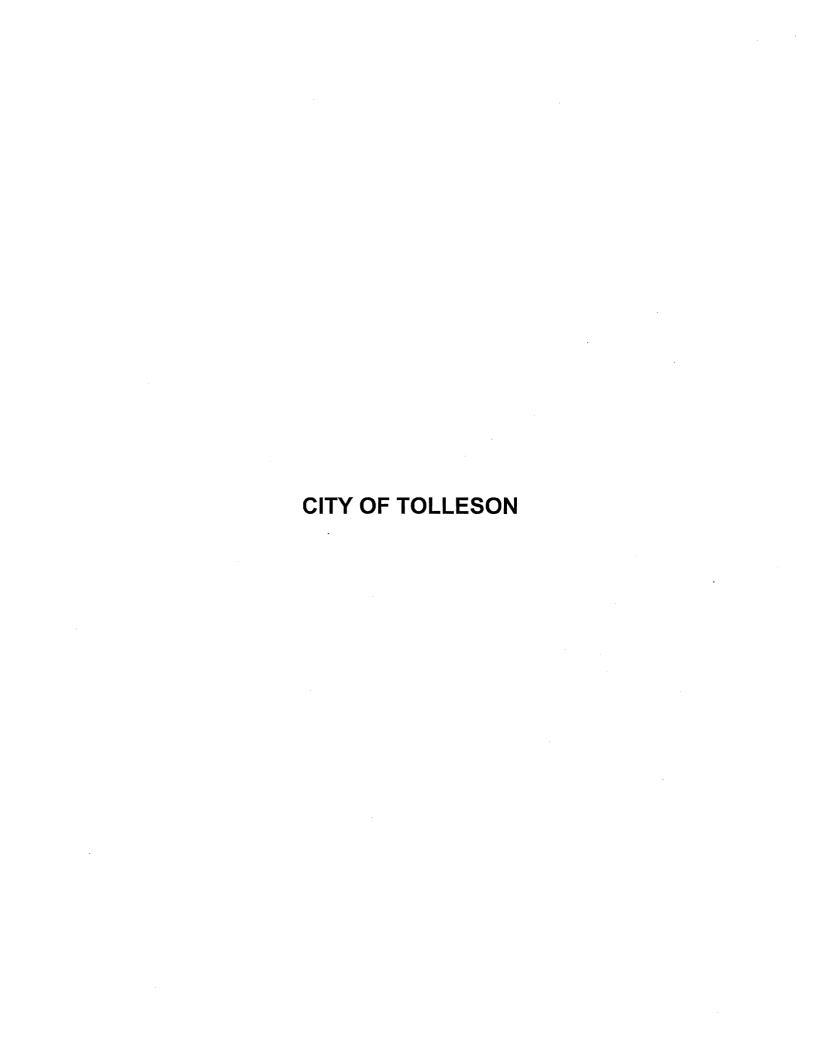
Responsible Agency and Authority for Implementation: City of Tempe Development Services, Parks and Recreation and Police Departments. The Police Department enforces traffic and trespass codes. The Parks and Recreation Department enforces the parking codes for city parks.

<u>Implementation Schedule</u>: The resource review will be completed in twelve months of City Council approval of these measures.

Level of Personnel and Funding Allocated for Implementation: The staffing level for implementing the measure will be conducted as part of the resource review and review of above commitments to restricting vehicular access to unpaved lots.

<u>Enforcement Program</u>: The Police Department will, in cooperation with the Parks and Recreation Department, use available off-road all-terrain vehicles to help enforce vehicle trespass prohibitions. The Parks and Recreation Department enforces the parking and vehicle use codes for city parks and other open spaces by inspection and control of access barriers to restrict vehicle use as necessary.

Monitoring Program: Information and data will be provided on measure implementation to the MCESD, ADEQ or MAG upon request.



CITY OF TOLLESON

RESOLUTION NO. 1014

A RESOLUTION OF THE COUNCIL OF THE CITY OF TOLLESON, ARIZONA, COMMITTING TO IMPLEMENT CERTAIN MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NON-ATTAINMENT AREA.

WHEREAS, the Maricopa Association of Governments ("MAG") has been designated by the Governor of Arizona as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County non-attainment area is classified as a Serious Area for PM-I0 particulate matter according to the Clean Air Act; and

WHEREAS, because the Maricopa County non-attainment area failed to attain the PM-10 standard by December 31, 2006, MAG has produced a plan that includes measures to reduce PM-10 emissions by five percent per year (the "Five Percent Plan"); and

WHEREAS, ARIZ. REV. STAT. § 49-406(G) requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies (i) its authority for implementing the measure as provided in statute, ordinance, or rule, (ii) a program for enforcement of the measures (iii) and the level of personnel and funding allocated to the implementation of the measure; and

WHEREAS, the City of Tolleson (the "City") is empowered to implement measures of the Five Percent Plan pursuant to State law and the Tolleson City Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TOLLESON as follows:

SECTION 1. That the City agrees to proceed with a good faith effort to implement the Five Percent Plan measures set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2. That the City commits to implement the measures as scheduled and with the funding sources identified, recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various federal, state and local agencies. The City resolves to consider modifications of its funding or the schedules for implementation actions, if necessary.

PASSED AND ADOPTED by the Council of the City of Tolleson this 24th day of July 2007.

Adolfo F. Gámez, Mayor

ATTEST:

APPROVED AS TO FORM:

Chris Hagen, City Clerk

Scott W. Ruby, City Attorper

Measure 1. Public Education and outreach with assistance from local governments

Measure Description: The City of Tolleson will begin an information campaign that increases the public's awareness of the PM-10 issue. The focus of the campaign will highlight what Tolleson and its citizens can do to reduce airborne dust.

<u>Responsible Agency and Authority for Implementation</u>: Legal authority for this action is proved under A.R.S. Section 9-240, General Powers of Common Council.

Implementation Schedule: Tolleson will assist Maricopa County to increase public awareness of the PM-10 problems to Tolleson residents. The city will utilize the materials and/or \information developed by the County and distribute/communicate them through various methods, e.g., city webpage, citizen and employee newsletters, and stocking brochures at the City's public facilities, including the libraries.

<u>Level of Personnel and Funding Allocated for Implementation:</u> The program will be implemented by existing personnel. Funding for the implementation of this measure will be absorbed in the Public Works department budget allocation.

Enforcement: N/A

Monitoring Program: Tolleson staff will track the number and type of calls received regarding dust issues to determine the effectiveness of the outreach campaign.

Measure 22. Reduce off-road vehicle use in areas with high off-road vehicle activity

Measure Description: This measure would involve development and enforcement of ordinances or implementation of other actions to prevent or discourage off-road vehicle use in the PM-10 non-attainment area.

Responsible Agency and Authority for Implementation: The Public Works and Building Department "(Code Enforcement)", through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule:</u> Monitoring will begin August 1, 2007 and continue to August 1, 2008. If problem areas are identified, a recommended course of action/implementation schedule will be submitted to Council no later than October 30, 2008. MAG will then be advised of the approved course of action.

<u>Level of Personnel and Funding Allocated for Implementation:</u> Funding for the implementation of this measure is determined in the city's annual budgeting process.

<u>Enforcement:</u> If a need is identified, recommended course of action may include the implementation of an enforcement program. MAG will be notified of any applicable actions undertaken by the City.

Monitoring Program: Public Works and Code Enforcement will patrol these areas with code enforcement personnel responding to complaints as they are received.

Measure 29. Sweep streets with PM-10 certified street sweepers

<u>Measure Description:</u> This measure would require all public paved roads in the PM-10 non-attainment area to be swept with purchased or contracted PM-10 certified street sweepers.

Responsible Agency and Authority for Implementation: The City of Tolleson Public Works Department, through the authority granted to them provided by A.R.S. § 9-240.

<u>Implementation Schedule:</u> The City is currently in compliance.

Level of Personnel and Funding Allocated for Implementation: The Public Works Department has two PM-10 certified sweepers in the fleet and operators on staff. The program is fully funded.

Enforcement: N/A

Monitoring Program: N/A

Measure 31. Pave or stabilize existing unpaved parking lots

Measure Description: This measure would involve strengthening and proactively enforcing dust control rules or ordinances that reduce fugitive dust and PM-10 emissions from existing unpaved parking and vehicle maneuvering areas.

Responsible Agency and Authority for Implementation: The City of Tolleson Public Works and Code Enforcement, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule:</u> By May 31, 2008, the city will amend or adopt a city ordinance to require that parking, maneuvering, ingress and egress areas for new and existing development are maintained with paving or a stabilization method approved by the city. The city will allow a phase-in period prior to enforcing the new requirement. The phase in period will be used to educate and inform businesses and the public of the new requirement.

Level of Personnel and Funding Allocated for Implementation: Funding for the implementation of this measure is determined in the city's annual budgeting process.

Enforcement: The enforcement function will be staffed and administered under the Code Enforcement Division.

Monitoring Program: The Public Works Department and Code Enforcement will be responsible for monitoring privately-owned parking lots.

Copy of Ordinance, Rule or Regulation: A copy of the ordinance, if passed, will be forwarded to the Maricopa Association of Government.

Measure 32. Pave or stabilize existing public dirt roads and alleys

Measure Description: The City will continue to pave and/or stabilize existing dirt roads and alleys. The City currently does not have any dirt roads or alleys that have traffic in excess of 50 vehicles per day.

Responsible Agency and Authority for Implementation: The City of Tolleson Public Works Department, through the authority granted to them by A.R.S. § 9-240.

Implementation Schedule: N/A. There are no existing dirt roads or alleys with traffic in excess of 50 vehicles per day.

Level of Personnel and Funding Allocated for Implementation: N/A

Enforcement: N/A

Monitoring Program: N/A

Measure 33. Limit speeds to 15 miles per hour on high traffic dirt roads

Measure Description: Dirt roads with traffic in excess of 50 vehicles per day.

Responsible Agency and Authority for Implementation: N/A

Implementation Schedule: N/A. There are no existing dirt roads or alleys with traffic in excess of 50 vehicles per day.

Level of Personnel and Funding Allocated for Implementation: N/A

Enforcement: N/A

Monitoring Program: N/A

Measure 35. Pave or stabilize unpaved shoulders

Measure Description: This measure would require paving or stabilizing dirt shoulders on paved public roads that carry a high level of traffic (e.g., 2,000 vehicles or 50 heavy duty trucks per average weekday).

Responsible Agency and Authority for Implementation: The City of Tolleson Public Work, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule:</u> The City of Tolleson will inventory all the streets assets to assist with complying with this measure. Maintenance will be scheduled on a five-year plan and linked to the Capital Improvement Plan for funding.

Level of Personnel and Funding Allocated for Implementation: The Public Works Department is responsible for paving or stabilizing unpaved shoulders. The city will budget for material cost and use existing personnel to complete the work.

Enforcement: N/A

Monitoring Program: The Public Works Department will monitor the application and the effectiveness of the dust control agent, and make arrangements for reapplication at needed intervals.

Measure 38. Restrict vehicular use on vacant lots

<u>Measure Description:</u> The City will continue to enforce the ordinance requirement pertaining to the restriction of parking and driving on unpaved surfaces.

Responsible Agency and Authority for Implementation: The City of Tolleson Public Works Department and Code Enforcement, through the authority granted to them by under A.R.S. § 9-240.

<u>Implementation Schedule:</u> The City of Tolleson currently has restrictive ordinances prohibiting parking on vacant lots. Public Works and Code Enforcement staff will identify vehicular use and parking on vacant lots. If problem sites are identified, a recommended course of action/implementation plan will be submitted to the City Council for approval no later than September 30, 2008. MAG will be notified of any plan(s) implementation.

<u>Level of Personnel and Funding Allocated for Implementation:</u> The Public Works Department and Code Enforcement staff will perform monitoring activity during the normal course of their daily work activities.

Enforcement: Code Enforcement staff will continue to meet with violators.

<u>Monitoring Program</u> The City will prepare and submit progress reports, when requested by other agencies.

Measure 39. Enhanced enforcement of trespass ordinances and codes

Measure Description: The City of Tolleson will monitor vehicle trespass activity from August 1, 2007 to August 1, 2008 to determine whether a problem exists.

Responsible Agency and Authority for Implementation: The Public Works, Police and Code Enforcement departments, through the authority granted to them by A.R.S. § 9-240.

<u>Implementation Schedule:</u> Data will be gathered from August 1, 2007 to August 1, 2008. If a problem exists, staff will develop a plan for review and approval by City Council.

<u>Level of Personnel and Funding Allocated for Implementation:</u> The Police Department and Code Enforcement is responsible for enforcing trespassing on private property.

Enforcement: This measure will be enforced by ordinance and Arizona trespassing laws.

<u>Monitoring Program:</u> Code Enforcement staff will report will report violations of private trespass.

TOWN OF YOUNGTOWN

RESOLUTION NO. 07-20

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, TO IMPLEMENT MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NONATTAINMENT AREA

WHEREAS, the Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona, as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Area of PM-10 particulate matter according to the Clean Air Act; and

WHEREAS, the Five Percent Plan for PM-10 is required by the Clean Air Act since the Maricopa County nonattainment area failed to attain the PM-10 standard by December 31, 2006; and

WHEREAS, the plan is required to reduce PM-10 emissions by five percent per year until the standard is met; and

WHEREAS, Arizona Revised Statutes 49-406-G. requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measure as provided in statute, ordinance, or rule; a program for enforcement of the measures; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE BE IT RESOLVED, BY THE TOWN OF YOUNGTOWN as follows:

SECTION 1. That the Council of the Town of Youngtown agrees to proceed with a good faith effort to implement the measures identified in Exhibit A which is part of this resolution.

SECTION 2. That the Council of the Town of Youngtown agrees to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, the Town of Youngtown agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

PASSED AND ADOPTED by the Mayor and Council of the Town of Youngtown, Arizona, this 21st day of June 2007.

MICHAEL LEVAULT, MAYOR

ATTEST:

APPROVED AS TO FORM:

SUSAN GOODWIN, TOWN ATTORNEY Curtis, Goodwin, Sullivan, Udall & Schwab, PLC



EXHIBIT A

TOWN OF YOUNGTOWN COMMITMENTS TO IMPLEMENT MEASURES IN THE MAG FIVE PERCENT PLAN FOR PM-10

Measure Title	Description	Responsible Agency and Authority for Implementation	Implementation Schedule	Level of Personnel & Funding Allocated for Implementation	Enforcement Program	Monitoring Program
1. Public education and outreach	Bring Back Blue materials available at all Town facilities, meetings and website. Place notice in Town newspaper (Youngtown Village Reporter). Distribute materials to HOA, organizations, churches, property owners and tenants	Town of Youngtown Departments: Police, Code Compliance, Town Clerk	September 2007	Departmental Budgets in Police, Code Compliance and General Government contain funding for this program	N/A	Maintain supply of materials, keep information fresh and updated
22. Reduce off-road vehicle use in areas with high off-road vehicle activity-impound or confiscation of vehicles for repeat violations	Youngtown aggressively enforces by confiscating offending vehicles and citing drivers. Town residents are astutely aware of the issue and provide notification to the Police Dept. "How to Save \$\$\$" notice is an effective approach to notifying public.	Town Departments: Police, Code Compliance	On-going	Annual Police Dept. Budget	Police Dept. enforces program with response to complaints.	Activity for enforcement may be found in the Police log.

Measure Title	Description	Responsible Agency and Authority for Implementation	Implementation Schedule	Level of Personnel & Funding Allocated for Implementation	Enforcement Program	Monitoring Program
29. Sweep streets with PM-10 Certified Sweepers	Town of Youngtown sweeps streets monthly and has a PM-10 certified sweeper. Increase sweeping activity is the improvement sought and additional PW personnel in process of training to drive sweeper.	Public Works Department	Implemented and on-going	Annual Public Works Budget	N/A	Review of Public Works activity schedule
31. Pave or stabilize existing unpaved parking lots-strengthen enforcement	Youngtown aggressively enforces this issue and does not have any unpaved parking lots. Commercial property owners are informed to repair and maintain parking areas.	Code Compliance Officer Youngtown Code-Chapter 8.20.010 to .050; 8.24.020; 8.28.010 to .030 Youngtown General Plan Chapter 7 Environmental Element	Implemented and on-going	Code Compliance Budget	Code Compliance Officer has the primary responsibility to enforce this section of the Code.	Periodically monitor appearance of Town for parking violations. Review of Code Compliance Officer's activity report.
32. Pave or stabilize existing public dirt roads and	Youngtown has only one unpaved dirt road (115 th Ave.), of which County owns the first 400 ft. off the main roadway (Olive Ave.). Commercial business (landfill) maintains and stabilizes entire roadway. Youngtown has 8.5 miles of unpaved alleys, with utilities placed less than 12 inches below surface. Youngtown	Youngtown Code-Chapter 8.20.010 to .050; 8.24.020; 8.28.010 to .030 Youngtown General Plan Chapter 7 Environmental Element	Implemented and on-going	Public Works Budget	Public Works Director and Code Compliance Officer	Periodic monitor road and alley surfaces

2 }

·	continues to stabilize the surface, but is seeking funds to attack this issue. Estimated cost to pave alleys-\$1 million and Youngtown is seeking funding for the project.					
Measure Title	Description	Responsible Agency and Authority for Implementation	Implementation Schedule	Level of Personnel & Funding Allocated for Implementation	Enforcement Program	Monitoring Program
33. Limit speeds to 15 miles per hour on high traffic dirt roads	Youngtown does not have high traffic dirt roads, BUT does enforce 10 mph on the unpaved alleys. Inventory to be completed confirming that all 10 mph signs are posted in the alleys.	Police Dept. in communication and cooperation with Public Works Dept.	On-going enforcement and Inventory of signs to be done-Sept. 2007	Public Works Director and Police personnel Budgets for PW and PD	Police Dept. enforces through citations.	Periodic monitoring placement of signage.
35. Pave or stabilize unpaved shoulders	Youngtown does not have unpaved shoulders other than the singular dirt road (115 th Ave.) and alleys	Public Works	Implemented and on-going	Public Works Budget	Public Works Director by monitoring and Code Compliance Officer through citations	Periodic monitor road and alley surfaces
38. Restrict vehicular use and parking on vacant lots.	Tighten enforcement on residential, commercial and disturbed vacant lots	Code Compliance Officer Youngtown Code Chapter 8.28-Dust Control Youngtown General Plan Chapter 7 Environmental Element	Implemented and on-going	Code Compliance Budget	Code Compliance Officer- citations	Periodic monitoring

Measure Title	Description	Responsible Agency and Authority for Implementation	Implementation Schedule	Level of Personnel & Funding Allocated for Implementation	Enforcement Program	Monitoring Program
39. Enhanced enforcement of trespass ordinances and codes	Review Youngtown Code for changes to allow more stringent enforcement if needed.	Code Compliance Officer Youngtown Code Chapters 8.28-Dust Control and 8.32-Nuisances	September 2007-Review for possible change to Code	Code Compliance Officer and Budget	Code Compliance Officer through warnings and citations	Compare to other municipal Code

Version: June 21, 2007





10 SAVE ***



MEASURE 22

The Town of Youngtown and the State of Arizona regulate the use of ATVs, QUADs, ATCs, DIRT BIKES and off-road vehicles on public roadways, private property and dirt lots. If you own one of these vehicles, you need to know that you <u>can not</u> ride it on any dirt surface and, unless licensed by the Motor Vehicle Department, on the streets of Youngtown (Municipal Code 10.12.015.B)

There has been a major increase in the illegal use of these vehicles in Youngtown. We want to make sure that residents understand the law, and what will happen if they commit violations of the law.

To operate these vehicles in Youngtown OR on any public road, you must:

OR, when stopped by police:

Have the vehicle licensed! And have proof of ownership in your possession. If you do not: If the vehicle is licensed you must:	The vehicle will be towed & stored as evidence until after trial or payment of any fine. Before the vehicle can be released, 1)You have to pay towing and storage costs that may exceed \$500. 2)You must provide proof of your ownership. Without proof of ownership vehicle can't be released.*
Have Proof of Insurance	This is a civil offense, sanction can be \$1,000 or more
You must have a driver's license to operate the off road vehicle (i.e. you must be at least 16) and have a Motorcycle Endorsement!	This is a civil offense, sanction can be \$1,000 or more
Wear eye protection!	This is a civil offense, sanction can be \$1,000 or more
Wear a helmet if under age of 18	This is a civil offense, sanction can be \$1,000 or more

^{*}Violation of Town Code Section 10.12.015.B, is a Class 1 Misdemeanor criminal offense. The fine can be \$2,500 and/or 6 months in jail. Arizona Motor Vehicle Statute ARS 28-2153A make the operation of an unlicensed motor vehicle a civil offense. You can be cited for both the Misdemeanor and the Failure to Register Vehicle. Questions? Call Youngtown Police Services at 623-974-3665. If you see an off-road vehicle that you feel may be in violation of the law, call: Crime Stop at 602-876-1011.

8.20.010 Definitions.

In this chapter unless the context requires otherwise:

"Abandoned" means any one of the following terms: abandoned, stripped, unclaimed, junked, discarded, currently unlicensed, currently unregistered, or a vehicle being repaired where such repairs have not been completed within three days.

"Dismantled" and "partially dismantled motor vehicle" means a motor vehicle from which some part, ordinarily a component of such motor vehicle, has been removed or missing.

"Dwelling" means any house, building, structure or portion thereof located in a residential area which is occupied in full or in part as the home, residence, living or sleeping place, or which is intended to be occupied by one or more human beings.

Improved Parking Surface.

- 1. "Front yard" means a driveway or pad that is maintained for parking that is concrete or asphalt.
- 2. "Side yard" means a driveway or pad that is maintained for parking that consists of gravel and is weed and grass free.
- 3. "Back yard" means a driveway or pad that is maintained for parking that is dustproof and weed and grass free.

"Inoperative motor vehicle" means a vehicle which by reason of dismantling, disrepair or other causes is incapable of being propelled under its own power.

"Motor vehicle" means any vehicle designed to operate on land, water or air, that is self propelled, was self propelled, or intended to be self propelled.

"Store" or "storage" means the presence or locating of any dismantled, partially dismantled, inoperative or abandoned motor vehicle. (Ord. 00-11 §§ 1, 2; Ord. 96-05 § 1; prior code § 11-3(A))

8.20.020 Outdoor storage of dismantled, partially dismantled, inoperative or abandoned motor vehicles or parts prohibited.

Except as hereinafter provided, it is unlawful for any person to store on, place on, or permit to be stored on or placed on or allowed to remain on, any property in a residential area within the town a dismantled, partially dismantled, inoperative or abandoned motor vehicle or any parts thereof; provided, however, not more than one dismantled, partially dismantled, inoperative or abandoned motor vehicle and parts thereof may be stored in a wholly enclosed garage or other wholly enclosed structure on property upon which there is a dwelling. A fenced or walled area shall not be considered a wholly enclosed structure hereunder if any vehicle, or part of the vehicle may be seen from a street, alley or other private or public property. (Prior code § 11-3(B))

8.20.040 Nuisance designated.

The presence of a dismantled, partially dismantled, inoperative or abandoned motor vehicle or part of a motor vehicle on any parcel of land in violation of the terms of this chapter is declared to be a public nuisance. (Prior code § 11-3(D))

8.20.050 Front yard parking.

A. Unless otherwise prohibited by the provisions of this chapter for being parked in the front yard of a single-family or two-family residence lot, a motor vehicle may be parked in the front yard except that such vehicles must be parked on an improved driveway or upon an improved parking surface and provided that the total width of the parking area does not exceed either thirty

- (30) feet or fifty (50) percent of the lot width as measured at the front yard setback, whichever is less. For the purposes of this section, improved driveway or improved parking surface shall consist of concrete or asphalt. No part of any vehicle parked in the front yard of a single-family or two-family residence lot shall extend over the public sidewalk or sidewalk area where no side walk exists.
- B. No recreational vehicle, boat and/or boat trailer or utility trailer may be parked in the front yard. "Front yard" is defined in Section 8.24.020(B), except that for purposes of parking, the front yard shall be measured from the front edge of the foundation.
- C. No one may drive over any grassy portion of their yard to reach a driveway or parking pad. (Ord. 96-05 § 2; Ord. 91-1 § 1: prior code § 11-3(E))

8.24.020 Parking limitations.

- A. It is unlawful to park more than one recreational vehicle, one boat and/or boat trailer, and one utility trailer on a single-family residential lot. Such recreational vehicles shall be parked in side or back yards and shall be parked on an improved surface only. Said recreational vehicle shall not be used for storage or sleeping accommodations except as otherwise allowed in this code. Utility trailers may only be parked in the rear yard.
 - B. An improved parking surface shall be defined as follows:
 - 1. Front yard: A driveway or pad that is maintained for parking that is concrete or asphalt.
- 2. Side yard: A driveway or pad that is maintained for parking that consists of gravel and is weed and grass free.
- 3. Back yard: A driveway or pad that is maintained for parking and is dust proof, weed and grass free.
- C. Front yard shall be defined as set forth in Section 17.04.030 except that for purposes of recreational vehicles, boats, boat trailer parking, the front yard shall begin at the front edge of the foundation rather than at the edge of any projection of the building. (Ord. 02-04 § 3 (part); Ord. 02-02 § 3 (part))

8.28.010 Definitions.

As used in this chapter:

"Dust free" means that the parking surface has been paved with concrete or asphalt paving material approved by the building inspector.

"Dust proof" means that the parking surface has been chemically stabilized and/or covered with gravel as approved by the building inspector. (Ord. 98-16 § 1 (part); prior code § 11-5(G))

8.28.020 Dust control measures generally.

- A. All improved parking surfaces for new construction shall be dust free and shall be completed before the town will issue an occupancy permit.
- B. The owners of all existing unpaved parking areas greater than five thousand (5,000) square feet shall cause them to be paved with a material acceptable to the building inspector no later than January 1, 2000.
- C. Vehicle parking and/or use on any lot of greater than five thousand (5,000) square feet is prohibited unless the lot is dust proofed. Both the owners and operators may be cited for violation of this chapter.
- D. The owners and operators of any lot on which vehicles will be parked for the purposes of any special event shall dust proof the lot prior to, during and subsequent to the special event. No

special use permit shall be issued until such dust proofing is in place. (Ord. 98-16 § 1 (part); prior code § 11-5(A)—(D))

8.28.030 Dust control during weed abatement activities.

The following dust control measures must be applied when weed abatement activities are occurring. The owner of such vacant lot shall:

- A. First apply dust suppressants to the total surface area subject to disturbance prior to or during weed abatement;
 - B. Prevent or eliminate material tracked out onto paved surfaces;
- C. Immediately apply dust suppressants, gravel compaction or alternative control measures following weed abatement to the entire disturbed surface area such that the surface is stabilized.

Any owner or operator of a disturbed vacant lot that remains vacant for more than fifteen (15) days must either establish a ground cover vegetation on all disturbed surface areas, apply a dust supplement to all disturbed surface areas, restore to a natural state, or apply and maintain surface gravel to stabilize all disturbed surfaces. (Ord. 98-16 § 1 (part); prior code § 11-5(E))

7: ENVIRONMENTAL ELEMENT

Introduction

The purpose of the Environmental Element is to address the impacts of development on air and water quality and the conservation of natural resources. This element was prepared in accordance with A.R.S. §9-461.05.

Current Situation

Maricopa County is classified as a Serious Area, as defined by Environmental Protection Agency (EPA) standards, for all carbon monoxide (CO), ozone, and particulate matter (PM-10). It is also a Non-Attainment Area for ozone.

Carbon Monoxide

Based upon the 1996 base year emissions inventory, the primary sources of carbon monoxide are: On-road Mobile (automobiles and trucks) 53.9 percent; Non-road Mobile (utility lawn and garden, construction, farm, and recreational equipment, aircraft, and locomotives), 43.5 percent; Area Sources (residential wood and industrial fuel combustion, on-site incineration, and open burning) 2 percent; and Point Sources (industrial, manufacturing and electrical power generation facilities) 0.6 percent.⁸

In order to reduce carbon monoxide, the State and local governments committed to implement a wide variety of air quality measures. Key measures included in the plan are: California Air Resources Board (CARB) Phase 2 Reformulated Gasoline During the Winter Months; Phased-in Cutpoints for the I/M 240 Vehicle Emissions Test; Traffic Synchronization; Intelligent Transportation Systems; One Time Waiver from the Vehicle Emissions Test; Deferring Emissions Associated with Government Activities; and other Transportation Control Measures.⁶

PM-10

Based upon the 1995 base year regional emissions inventory, the primary sources of PM-10 are: Non-road Sources (construction/earthmoving dust, construction trackout, non-road engine exhaust, and construction windblown dust) 43.0 percent; On-road Sources (paved road dust, unpaved road dust, and on-road vehicle exhaust) 32.9 percent; Area Sources (disturbed vacant land and agricultural

⁸ Revised MAG 1999 Serious Area Carbon Monoxide Plan For The Maricopa County Nonattainment Area, Executive Summary

windblown dust, agricultural dust, other area sources, and residential wood burning) 22.6 percent; and Point Sources 1.5 percent.⁹

The key measures in the Revised MAG 1999 Serious Area Particulate Plan for PM-10 used for attainment include: Strengthening and Better Enforcement of Fugitive Dust Control Rules; Reduce Particulate Emissions from Unpaved Roads and Alleys; Reduce Particulate Emissions from Unpaved Parking Lots; Reduce Particulate Emissions from Vacant Disturbed Lots; PM-10 Efficient Street Sweepers; Curbing, Paving, or Stabilizing Shoulders on Paved Roads; Paving, Vegetating, and Chemically Stabilizing Unpaved Access Points Onto Paved Roads; PM-10 Episode Thresholds; Restaurant Charbroiler Controls; Clean Gasoline (long-term and winter fuel reformulation); Pre-1988 Heavy-Duty Diesel Commercial Vehicle Standards; and Coordinate Traffic Signal Systems.⁷

In 1997, under Town Resolution No. 97-15, the Town of Youngtown agreed to implement measures in the MAG 1997 PM-10 and Carbon Monoxide Plan as follows, 1) to implement an alternative work schedule to decrease vehicle usage (Measure 97-TC-13 and 97-NR-7), 2) to curb, pave or stabilize shoulders on paved roads (Measure 97-DC-4), and 3) to implement frequent routine sweeping or cleaning of paved roads (Measure 97-DC-5).

In 1998, under Town Resolutions No. 98-15 and 98-05, the Town agreed to the additional following measures to reduce PM-10 particulates (see Table 10, Measures Adopted to Reduce PM-10 Particulates).

Table 10, Measures Adopted to Reduce PM-10 Particulates

Resolution 98-15	
Measure	
98-FP-1	Adopt a fireplace ordinance (Ordinance No. 98-15)
98-DC-7	Implement a plan to stabilize unpaved roads and alleys
98-DC-8	Implement a plan to stabilize unpaved shoulders of paved targeted arterials
98-DC-9	Reduce particulate emissions from unpaved parking lots
98-DC-10	Reduce particulate emissions from vacant disturbed lots
98-DC-12	If economically feasible, the Town will purchase PM-10 efficient street sweeping units
Resolution 98-05	선생님이 마음이 얼마를 살아가고 살아가면 살아 있다면 하는 것이 아이를 들었습니다. 그
	The Town will participate in a regional program led by the County to reduce particulate pollution

Source: Revised MAG 1999 Serious Area Particulate and Carbon Monoxide Plans for the Maricopa County Nonattainment Area, Commitments for Implementation, Vols. 3 & 4

⁹ Revised MAG 1999 Serious Area Particulate Plan For PM-10 For The Maricopa County Nonattainment Area, Executive Summary

Flooding

The Town works with the Flood Control District of Maricopa County to protect the community from flooding. The Town is impacted by the Agua Fria 100-year floodplain. While the Town does not oppose removing land from the 100-year floodplain of the river, it works with the Flood Control District of Maricopa County to determine appropriate actions to prevent flooding and development within the 100-year floodplain of the Agua Fria River.

Landfills

The closed El Mirage landfill is located on the west bank of the Agua Fria River and is visible from Youngtown. While El Mirage has no plans for the landfill, Youngtown residents would like it removed or redeveloped.

Future Trends

The practices that have been established so far should improve the air and water quality for the Town. As the region and the Town continue to increase in population, efforts to maintain and enhance these programs should continue.

Planning Issues

- As Youngtown continues to develop, efforts must continue to ensure that the 100-year, 2-hour storm event is fully contained within new developments.
- As new areas are annexed, existing County and private roads will need to comply with PM-10 and Carbon Monoxide commitments.
- ➤ Youngtown may consider working with El Mirage on removing or redeveloping the El Mirage landfill.

Goals, Objectives and Policies

GOAL 1: LOCATE LAND USES TO PREVENT

NEGATIVE IMPACTS TO YOUNGTOWN

RESIDENTS

Objective 1.1: Potentially hazardous land uses which may

include, but are not limited to, landfills, power generating stations, and gas stations are located a safe distance from residential devel-

opment.

Policy 1.1.1: Prohibit uses that could negatively impact the

safety and health of the residents next to existing

residential development.

Policy 1.1.2: Require all development that has either docu-

mented, or the potential to have, air, water or other environmental impacts that may affect the health and safety of Youngtown residents to mitigate these impact at their own expense.

gate these impact at their own expense.

Policy 1.1.3: Work with the City of El Mirage to redevelop or

remove the El Mirage landfill.

GOAL 2: CONTINUE TO MEET FEDERAL, STATE

AND COUNTY AIR AND WATER QUAL-

ITY STANDARDS.

Objective 2.1: Participate in the Maricopa Association of

Governments and Maricopa County efforts to meet federal and state air and water quality

standards.

Policy 2.1.1: Continue to participate in the AzTech Model

Deployment Initiative.

Objective 2.2: Reduce PM-10 and Carbon Monoxide.

Policy 2.2.1: Encourage ridesharing through maintenance of

the employee rideshare database and providing

preferential parking for carpools.

Policy 2.2.2: Continue to pave alleys and unpaved roads each

year as funds allow.

Policy 2.2.3: Require all newly developed or redeveloped park-

ing areas and driveways to have a paved surface.

Policy 2.2.4: Work with the City of El Mirage to monitor the

use of the landfill, which has become an air quality nuisance due to recreational vehicle using the

area.

GOAL 3: PROTECT RESIDENTS OF YOUNGTOWN

FROM EXCESSIVE NOISE IMPACTS.

Objective 3.1: Discourage rezoning requests for residential

development in high noise areas.

Policy 3.1.1: Require mitigation measures on new residential

development areas to achieve compliance with

local, state and federal noise standards.

NUISANCES

Sections:	
8.32.010	Purpose, findings and scope.
8.32.020	Definitions.
8.32.030	Owner, occupant or person in control to maintain premises.
8.32.040	Public nuisances defined.
8.32.050	Authority to inspect.
8.32.060	Abatement in lieu of or in addition to civil or criminal complaint.
8.32.070	Emergency abatement.
8.32.080	Interference with inspection, abatement.
8.32.090	False information.
8.32.100	Abatement procedures.

8.32.010 Purpose, findings and scope.

- A. Purpose. The purpose of this chapter is to define and prohibit and abate public nuisances pursuant to the police powers of the town and to ensure the public health, safety and welfare insofar as they are affected by public nuisances.
- B. Findings. The town council finds that the failure of a property owner, occupant or person in control to maintain property in a safe and sanitary manner as required by this chapter creates a public nuisance and is hazardous to the public health, safety and welfare. Public nuisances promote the spread of disease, endanger the physical safety of occupants and cause neighborhood blight.
- C. Scope. This chapter shall apply to all land within the town without regard to the use or occupancy or the date of acquisition, alteration, or improvement of such land and to all existing residential and nonresidential structures and all existing premises. (Ord. 03-07 § 1 (part))

8.32.020 Definitions.

"Abatement" means the removal, stoppage, prostration, or destruction of that which causes or constitutes a public nuisance, whether by breaking or pulling it down, or otherwise destroying or defacing it.

"Alley" means a public passageway affording a secondary means of access to abutting property.

"Building, enclosed" means a building with a perimeter composed of rigid walls and a roof.

"Hazard" means a condition that may cause serious personal harm.

"Imminent hazard" means a condition that presents an immediate likelihood for causing serious personal harm.

"Infestation" means the apparent presence of insects, rodents or other pests.

"Junk" means items that in their present state are of little or no apparent economic value that are not confined within an industrial area in compliance with the Youngtown zoning code, such as an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper or machinery parts; inoperative machinery or appliances; building material wastes; litter; or discarded or empty containers.

"Land" means all land in the town, whether improved or unimproved.

"Occupant" means the person occupying or having custody of a structure or premises as a lessee or otherwise.

"Outdoor light fixtures" means outdoor artificial illuminating devices, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices include, but are not limited to, search, spot or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage and street lighting.

"Owner" means the owner of record based on the records of the Maricopa County recorder's office.

"Person in control" means a person who has possession or the use and enjoyment of private property, whether or not said person is the owner of the property.

"Plant growth" means vegetation, whether living or dead, such as grass, weeds, vines, bushes, cactus, or trees, excluding cultivated crops.

"Polluted" means a condition that exists in water and is characterized by bacterial growth, algae, insect infestation, the remains of litter, debris, garbage or any other foreign matter which, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition.

"Property" means any real property, premises, structure or location on which a public nuisance is alleged to exist.

"Residential real property" means property that is used solely as leased or rented property for residential purposes.

"Stored" means parking, leaving, locating, keeping, maintaining, depositing, remaining or being physically present on private property. (Ord. 03-07 § 1 (part))

8.32.030 Owner, occupant or person in control to maintain premises.

The owner, occupant or person in control of any private property shall, at all times, maintain the premises and adjoining alleys free of public nuisances. (Ord. 03-07 § 1 (part))

8.32.040 Public nuisances defined.

Acts, omissions, conditions and things in or upon any private lot, building, structure or premises, or in or upon any public right-of-way, wash, street, avenue, alley, park, parkway or other public or private place in the town which are injurious to the public health, safety and general welfare, which interfere with the comfortable and reasonable use and enjoyment of property by any person, significantly impair property value or which unlawfully obstruct the free passage or use of any public park, wash, square, alley, sidewalk, street or highway are hereby declared to be public nuisances, and creating, causing, allowing or maintaining a public nuisance shall be unlawful and may be abated as set forth in this chapter. Public nuisances include, but are not limited to, the following:

- A. Any abandoned vehicle as defined in Chapter 8.20.
- B. Depositing, storing or maintaining any garbage or junk, or an accumulation of materials including but not limited to: vehicle parts, appliances, scrap iron, tin and other metals, unless stored safely within a lawful, enclosed building or structure.
- C. Causing, allowing or permitting any outdoor light fixture to be of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by any considerable number of people, with the lawful use of any school, public place or public street, with any governmental or public function of the town, or as to constitute a hazard or threat to the public health, safety and welfare of the people of the town; provided, however, this subsection shall not apply where the person causing, allowing or permitting said outdoor fixture is authorized by any school or by any ordinance of the town.
- D. The construction, continuance or use of any building, room or other place in the town for the exercise of any trace, employment or manufacture which, by noxious exhalations, including,

but not limited to, smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, is discomforting or offensive or detrimental to the health of individuals or of the public except for normal exhalation or smoke produced by normal heating devices. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

- E. Any unguarded or abandoned excavation, pit, well or hole dangerous, injurious or harmful to life or property.
 - F. Litter as defined in Chapter 8.12.
- G. Depositing in, sweeping upon, or permitting to drain into any public right-of-way or public place of the town any garbage, junk, obstruction, or similar matter or any hazardous material which is offensive to sight or smell or impedes passage or is detrimental to public health.
- H. Allowing any swimming pool or similar body of water to stagnate and thereby become atrophic, polluted or offensive to the senses and unsafe for its intended use.
- I. Erecting or maintaining any electric fence or to attach to any fence any glass, nails, metal objects or other materials in such a manner that is likely to injure any person who comes in contact with such object, or to erect or maintain any barbed wire or razor wire except that no more than three strands of barbed wire or one coil of razor wire not less than six feet and two inches above the ground are permitted at the top of an otherwise lawful fence enclosing a municipal, institutional or commercial use. Barbed wire fencing is not prohibited on premises larger than one acre used for agricultural or livestock purposes. Barbed wire or razor wire shall not extend beyond the premises, permitted to be enclosed.
 - J. Failing to secure a vacant or abandoned building against unauthorized entry at all times.
- K. Offering to sell, selling or planting any male mulberry tree (*Morus alba*) or olive tree (*Olea europea*) in the town unless it is one of the non-pollinating varieties of such trees. The town shall maintain a current list of non-pollinating varieties, which shall be available for public review and shall be based on industry standard for non-pollinating varieties, applicable horticultural and scientific research and data, review and evaluation by qualified experts, and other appropriate information.
- L. Allowing water to flow or failing to prevent water from flowing onto the property of another including streets, roads or rights-of-way.
- M. The doing of any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or other thing either:
- 1. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, street or highway in the town and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal; or
- 2. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by an entire community or neighborhood.
- N. A residential rental property that has been designated as a slum property pursuant to Chapter 8.36.
 - O. Graffiti as defined in Section 9.08.111.
 - P. Other acts the council determines to be and defines as nuisances.

Nothing in this section shall prohibit the council from adopting an ordinance providing for different procedures for specific classes of nuisances not included in this section, in which case, the abatement procedure in such ordinance shall apply. (Ord. 03-07 § 1 (part))

8.32.050 Authority to inspect.

- A. The code enforcement officer is hereby authorized to make inspections for violations of this chapter in the normal course of job duties or in response to a citizen complaint that an alleged violation of the provisions of this chapter may exist or when there is a reason to believe that a violation of this chapter has been or is being committed.
- B In order to determine compliance with this chapter, private property may be entered with the consent of the owner, occupant or person in control or as authorized by a court of competent jurisdiction. (Ord. 03-07 § 1 (part))

8.32.060 Abatement in lieu of or in addition to civil or criminal complaint.

In addition to or in lieu of filing a civil or criminal complaint, the town may file notice to abate any nuisance as defined in this chapter. Such abatement shall proceed independently of any civil or criminal violation filed pursuant to Section 42-296 and the town code enforcement officer, town prosecutor and town attorney are authorized to proceed with the filing of civil or criminal complaints to abate a public nuisance. (Ord. 03-07 § 1 (part))

8.32.070 Emergency abatement.

If a situation presents an imminent hazard to life or public safety, the town may issue a notice to abate directing the owner, occupant, or person in control to take such action as is appropriate to correct or abate the emergency upon notice by the enforcement official to the responsible person(s). In addition, the town may act to correct or abate the emergency. In the event the town is unable to contact the owner, occupant, or person in control, it in no way affects the town's right to correct or abate the emergency. The owner, occupant, or person in control shall be granted a hearing before the council on the matter upon his or her request, as soon as practicable, but such appeal shall in no case stay the abatement or correction of such emergency. (Ord. 03-07 § 1 (part))

8.32.080 Interference with inspection, abatement.

Any person who interferes, prevents, or attempts to interfere or prevent an individual employed by the town or other person contracted for by the town from investigating an alleged violation of this chapter, or from correcting or abating a violation of this chapter, is guilty of a Class 1 misdemeanor. (Ord. 03-07 § 1 (part))

8.32.090 False information.

Any person who knowingly makes a false or fraudulent statement, or knowingly misrepresents a fact, or misleads an individual employed by the town or other person contracted for by the town, when that individual is investigating, correcting or abating a violation of this chapter, is guilty of a Class 1 misdemeanor. (Ord. 03-07 § 1 (part))

8.32.100 Abatement procedures.

- A. Notice to Abate.
- 1. If, after an inspection, the town finds one or more violations of this chapter, and the town elects to use the abatement process, the town shall, in writing, notify the owner; such notice shall be actual notice as evidenced by a signed certified mail return receipt or affidavit of service.
 - 2. The notice to abate shall set forth the following information:
- a. The owner has thirty (30) days from the mailing of the notice to abate or correct the violation;

- b. Identification of the property in violation by street address, if known, and if unknown, then by book, map and parcel number;
- c. Statement of the violation in sufficient detail to allow a reasonable person to identify and correct the violation(s);
- d. An estimate of the cost of abatement by the town plus five percent for the costs of inspection and other incidental costs associated with abating the nuisance;
 - e. Re-inspection date and time;
 - f. Name, address and telephone number of the building official who sent the notice to abate;
- g. A warning stating that if the violations are not corrected within the thirty (30) day period the town can abate the problem and assess the owner the cost of such abatement and record a lien on the property for the assessment;
- h. A statement that the owner may appeal in writing to the council within fifteen (15) days from the date the notice is mailed by the town.

The fifteen (15) calendar day notice set forth in this section shall not apply to emergency abatements.

- B. Service of Notices.
- 1. Any notice required to be given for any purposes under this section shall be by having the code enforcement officer deliver the notice to the property owner, or by mailing the notice to the property owner by certified mail, return receipt requested.
- 2. Notice is deemed effective on the date it is hand-delivered or deposited in the United States mail.
- 3. Nothing in this chapter shall preclude the town from giving additional oral or written notice at its discretion. If the town does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.
- C. Recording a Violation. The notice to abate shall run with the land. The town, at its sole option, may record a notice to abate with the county recorder and thereby cause compliance by an entity thereafter acquiring such property. The non-filing of any notice to abate shall in no way affect the validity of such notice as to entities so notified. When the property is brought into compliance by the responsible party, a satisfaction of notice to abate shall be filed with the county recorder.
 - D. Appeals to the Council.
 - 1. Any notice to abate or assessment can be appealed to the council.
- 2. An appeal must be filed within fifteen (15) calendar days of the service of the notice to abate or assessment and must be filed with the town clerk's office.
- 3. Failure to timely file an appeal shall constitute a waiver of the right to a hearing of the appeal before the council and such person shall be stopped to deny the validity of any notice or assessment which could have been timely appealed.
- 4. The notice of appeal shall set forth, in writing, the owner's reasons for believing he or she is not in violation of this chapter or that the assessment is excessive.
- 5. The appeal shall be accompanied by an appeal fee of twenty-five dollars (\$25.00), such sum to be deposited in the general fund of the town.
- 6. In case of financial hardship, the fee may be suspended until the decision on appeal is rendered. The town council may also waive the fee upon a finding of financial hardship.
 - 7. Grounds for Appeal. Any person may appeal a notice to abate or assessment to the council:

- a. When it is claimed the property or building subject to the notice is not in violation of this chapter;
- b. When it is claimed the true intent of the section or standards described in this chapter have been incorrectly interpreted; or
- c. When it is claimed that the statement of costs for correcting or abating the violation is excessive.
 - 8. Procedure on Appeal.
- a. The town council shall set a date for hearing an appeal within forty (40) days of the receipt of notice of appeal by the town clerk.
- b. The town council shall take testimony from all parties to the appeal. The parties may if they choose be represented by an attorney.
- c. The town council shall prepare a written summary of the hearing and shall set forth the decision reached. The findings and decision shall be mailed to all parties to the appeal.
 - E. Conflicting Provisions; Special Assessment.
 - 1. Conflict of Ordinances.
- a. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the town existing on the effective date of this chapter, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- b. It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or with private restrictions placed upon the property by covenant, deed or other private agreement.
- c. In cases where two or more provisions of this chapter are in conflict, the most stringent or restrictive shall prevail.
 - 2. Special Assessment Lien.
- a. In the event the town is required to correct or abate a violation of this chapter, the town shall prepare a verified statement and account of the actual cost of such removal or abatement, including five percent for inspection and other incidental costs in connection with such correction or abatement. The verified statement and account shall be an assessment upon the property from which the town corrected or abated the violations and shall be collected at the same time and in the same manner as other town assessments are collected. Such assessment shall be recorded in the office of the Maricopa County recorder and from the date of its recording shall be a lien on the property. Such lien shall be subject to and inferior to the lien for general taxes and to all prior recorded mortgages. A sale of the property to satisfy a lien obtained under the provisions of this chapter shall be made upon judgment of foreclosure and order of sale. The town may institute an action to enforce the lien in the superior court of the county at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.
- b. A prior assessment pursuant to this chapter shall not be a bar to a subsequent assessment, and any numbers of liens on the same lot or tract of land may be enforced in the same action. (Ord. 03-07 § 1 (part))

MARICOPA COUNTY

RESOLUTION TO IMPLEMENT MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM₁₀ FOR THE MARICOPA COUNTY, ARIZONA NONATTAINMENT AREA

C.85.08.004.6.00

WHEREAS, Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona, as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Nonattainment Area for PM₁₀ particulate matter according to the Clean Air Act; and

WHEREAS, the Clean Air Act required the Maricopa County nonattainment area to attain the PM₁₀ particulate matter standard by December 31, 2006; and

WHEREAS, the Maricopa County nonattainment area failed to attain the PM₁₀ particulate matter standard by December 31, 2006; and

WHEREAS, due to the Maricopa County nonattainment areas failure to meet the PM_{10} particulate matter standard MAG as the regional air quality planning agency is required to develop a plan to reduce PM_{10} emissions by five percent per year until the standard is met ("the Five Percent Plan"); and

WHEREAS, the Five Percent Plan contains commitments by MAG members, including Maricopa County, to implement control measures to reduce PM₁₀ particulate matter emissions; and

WHEREAS, Arizona Revised Statutes 49-406 G. requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measures as provided in statute, ordinance, or rule; a program for enforcement of the measure; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS, MARICOPA COUNTY (BOARD) as follows:

SECTION 1. That the BOARD agrees to proceed with a good faith effort to implement the measures identified in Exhibit A, which is part of this resolution.

SECTION 2. That the BOARD commits to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, Maricopa County agrees to consider modifications of the funding or schedules for implementation actions, if necessary. Maricopa County agrees to submit any modification to the commitments in Exhibit A to EPA for approval as a SIP revision.

PASSED AND ADOPTED by the Board of Supervisors of Maricopa County, Arizona, this 10th day of September 2007.

ATTEST:

of the Board

Fulton Brock, Chairman

APPROVED AS TO FORM:

Deputy County Attorney

EXHIBIT A

MARICOPA COUNTY MEA	ASURES FOR THE MAG 2007 FIVE PERCENT PLAN FOR PM ₁₀		
Maricopa County Measure 1	MAG Measure 1. Public education and outreach with assistance from local governments		
Maricopa County Measure 2	MAG Measure 2. Extensive dust control training program		
Maricopa County Measure 3	MAG Measure 3. Dust managers required at construction sites of 50 acres and greater		
The second secon	MAG Measure 6. Better defined tarping requirements in Rule 310 to include enclosure of the be		
	MAG Measure 16. Require dust coordinators at earthmoving sites of 5-50 acres		
	MAG Measure 43. Require barriers for construction where all activity has ceased		
	MAG Measure 44. Reduce tolerance of trackout to 25 feet		
	MAG Measure 45. No visible emissions across the property line		
Maricopa County Measure 4	MAG Measure 4. Dedicated enforcement coordinator for unpaved roads, unpaved parking, and		
- v	vacant lots		
	MAG Measure 37. Strengthen and increase enforcement of Rule 310.01 for vacant lots		
Maricopa County Measure 5	MAG Measure 5. Establish a certification program for dust free developments to serve as an		
- •	industry standard		
Maricopa County Measure 6	MAG Measure 7. Conduct mobile monitoring to measure PM ₁₀ and issue NOVs		
Maricopa County Measure 7	MAG Measure 8. Conduct nighttime and weekend inspections		
Maricopa County Measure 8	MAG Measure 9. Increase inspection frequency for permitted facilities		
-	MAG Measure 10. Increase number of proactive inspections in areas of highest PM ₁₀ emissions		
	densities		
	MAG Measure 55. Increase enforcement in the areas where PM_{10} violations continue to occur,		
	along with efforts throughout the region.		
Maricopa County Measure 9	MAG Measure 11. Notify violators more rapidly to promote immediate compliance		
Maricopa County Measure 10	MAG Measure 12. Provide timely notification regarding high pollution days		
Maricopa County Measure 11	MAG Measure 13. Develop a program for subcontractors		
Maricopa County Measure 12	MAG Measure 14. Reduce dragout and trackout emissions from nonpermitted sources		
	MAG Measure 32. Pave or stabilize existing public dirt roads and alleys		
	MAG Measure 40. Ability to assess liens on parcels to cover the costs of stabilizing them		
	MAG Measure 45. No visible emissions across the property line		
Maricopa County Measure 13	MAG Measure 18. Fully implement Rule 316		
Maricopa County Measure 14	MAG Measure 21. Ban or discourage use of leaf blowers on high pollution advisory days		
Maricopa County Measure 15	MAG Measure 25. Ban leaf blowers from blowing debris into streets		
Maricopa County Measure 16	MAG Measure 29. Sweep streets with PM ₁₀ certified street sweepers		
Maricopa County Measure 17	MAG Measure 31. Pave or stabilize existing unpaved parking lots		
Maricopa County Measure 18	MAG Measure 32. Pave or stabilize existing public dirt roads and alleys		
Maricopa County Measure 19	MAG Measure 33. Limit speeds to 15 miles per hour on high traffic dirt roads		
Maricopa County Measure 20	MAG Measure 35. Pave or stabilize unpaved shoulders		
Maricopa County Measure 21	MAG Measure 36. Create a fund for paving and stabilizing in high pollution areas		
Maricopa County Measure 22	MAG Measure 22. Reduce off-road vehicle use in areas with high off-road vehicle activity		
	MAG Measure 38. Restrict vehicular use and parking on vacant lots		
	MAG Measure 39. Enhanced enforcement of trespass ordinances and codes		
Maricopa County Measure 23	MAG Measure 41. Increase fines for open burning		
	MAG Measure 42. Restrict use of outdoor fireplaces and pits and ambience fireplaces in the		
	hospitality industry		
Maricopa County Measure 24	MAG Measure 46. Modeling cumulative impacts		

MEASURES WHICH ARE NOT FEASIBLE FOR IMPLEMENTATION

MAG Measure 17. Create a dedicated funding source for the Maricopa County Air Program

MAG Measure 26. Implement a leaf blower outreach program

MAG Measure 30. Retrofit onroad diesel engines with particulate filters

MAG Measure 34. Prohibit new dirt roads including those associated with lot splits

MAG Measure 50. Support Maricopa County in receiving statutory authority to prohibit new dirt roads including those associated with lot splits.

MAG Measure 53. The Arizona State Legislature provide funding to this region for paving dir roads and shoulders and provide a funding source to local governments for the enforcement of non-permitted sources.

MAG Measure 54. Required to install two or more continuous PM₁₀ monitors at larger construction and mineral production facilities in excess of 50 acres

Measure Title: MAG Measure 1. Public education and outreach with assistance from local governments

<u>County Measure Description</u>: Initiate and manage a comprehensive outreach program designed to educate the public on the health effects and sources of particulate matter emissions and reduce the PM_{10} emissions in Maricopa County. The campaign will aim to curtail activities that contribute to PM_{10} by asking the public, among others, to reduce vehicle travel, avoid driving on dirt roads, avoid use of dust blowing and PM_{10} emitting garden equipment, reduce outdoor burning activities, and conserve electricity.

<u>Responsible Agency and Authority for Implementation:</u> Maricopa County will be the responsible agency to initiate and manage the Bring Back Blue Clean Air Initiative. Maricopa County will provide and share campaign materials with cities, towns, regulators as well as members of the community.

Implementation Schedule:

The schedule for implementation of the Bring Back Blue Clean Air Initiative is as follows:

January 2007 Launch multi-media campaign including website and collateral materials

as well as billboard, television, radio and print advertising

Winter - Spring 2007/08 Active campaign advertising (purchase of media advertising during times

of most frequent particulate exceedance points) and school outreach

activities.

Ongoing Website maintenance, news story generation, e-mail newsletters to

subscribers, outreach to communities/individuals through speakers and

Bring Back Blue informational booths at community events.

Level of Personnel and Funding Allocated for Implementation:

Maricopa County allocated \$1.025 million in FY2006/07 to create and implement the Bring Back Blue Clean Air Initiative. In FY2007/08 the Maricopa County Air Quality Department will seek approval of \$1.4 million to continue the initiative. The cost of an ongoing program will fluctuate based on the need for media advertising, both creating and providing television, radio and print advertising as well as purchasing advertising time. In addition, ongoing costs will include website maintenance, email newsletters, and outreach activities. Funding will be provided through the Air Quality Department's fund balance.

Enforcement Program: Compliance with this measure by the public is voluntary; therefore, enforcement is not applicable.

Monitoring Program:

Maricopa County will monitor progress and success of the Bring Back Blue Clean Air Initiative through market research, website statistics and gross impressions through media advertising.

Measure Title: MAG Measure 2. Extensive Dust Control Training Program

<u>County Measure Description:</u> Develop and implement basic and comprehensive training programs for the suppression of PM₁₀ emissions from sources of PM₁₀ that are subject to a permit that requires control of PM₁₀ emissions from dust generating operations.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513. A.R.S. § 49-474.05 establishes training requirements for site superintendents, water truck and water pull drivers, and dust control coordinators at sites subject to a permit requiring control of PM₁₀ emissions from dust generating operations.

Implementation Schedule:

Rule 310 revisions:

April 2007 - Sept. 2007

December 2007 March 2008

Draft rule revisions and conduct stakeholder workshops

Oral proceeding on rule revisions Board consideration of rule revisions

Rule 280 revisions:

August - September 2007

December 2007

March 2008

Draft rule revisions and conduct stakeholder workshops

Oral proceeding on rule revisions Board consideration of rule revisions

Rule 316 revisions:

August - September 2007

December 2007

March 2008

Draft rule revisions and conduct stakeholder workshops

Oral proceeding on rule revisions Board consideration of rule revisions

Database Development:

January 2008

Develop training database

Training Program Development:

December 2007

Develop "comprehensive" and "basic" training programs

March 2008

Develop "train the trainer" class

May 2008

Develop a training video for cities

Staffing:

December 2007

Hire 2 dust control compliance and 2 administrative support personnel to

coordinate and conduct the training programs

<u>Level of Personnel and Funding Allocated for Implementation: Level of Personnel and Funding Allocated for Implementation:</u>

The Maricopa County Air Quality Department Dust Compliance Division will administer the dust control training program. A detailed description of the Dust Compliance Division level of personnel for the dust control permit compliance program is contained in Maricopa County Measure #8. Specific to the dust control training program, the Air Quality Department will seek approval to hire 2 additional dust control compliance personnel and 2 administrative support staff to coordinate and conduct the basic and comprehensive training programs.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million. Annual costs associated with 2 additional dust control compliance and 2 administrative support personnel are estimated to be \$250,000. Start-up costs for database development, equipment, and training room rental are estimated to be \$415,000. Annual costs for database maintenance, training materials, and room rental are estimated to be \$132,000.

Enforcement Program:

Training cards will be issued to individuals who complete the training. Verification that training requirements have been met will be done during inspections.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

Monitoring Program:

The Air Quality Department will track individuals who have completed the required training.

Measure Title

MAG Measure 3. Dust managers required at construction sites of 50 acres and greater

MAG Measure 6. Better defined tarping requirements in Rule 310 to include enclosure of the bed

MAG Measure 16. Require dust coordinators at earthmoving sites of 5-50 acres

MAG Measure 43. Require barriers for construction where all activity has ceased

MAG Measure 44. Reduce tolerance of trackout to 25 feet

MAG Measure 45. No visible emissions across the property line

County Measure Description:

The Maricopa County Air Quality Department will revise Rule 310 and Rule 316 and may incorporate the following provisions:

Proposed Rule 310 revisions:

- Require the permittee for any site of 5 acres or more subject to a permit requiring control of PM₁₀ emissions from dust generating operations to have on-site at least one Dust Control Coordinator trained at all times during primary dust generating operations. The Dust Control Coordinator has full authority to ensure that dust control measures are implemented on site. The Dust Control Coordinator shall be responsible for managing dust prevention and dust control on the site.
- Require that the cargo compartments of trucks whether loaded or empty be fully enclosed prior to traveling on paved public roads
- Require barriers in addition to stabilization requirements for construction where all activity has ceased, except for sites in compliance with storm water permits.
- Require immediate cleanup of trackout at ≥25 feet.
- No visible emissions across the property line.

Proposed Rule 316 revisions:

- Require the permittee for any site of 5 acres or more of disturbed surface area subject to a permit requiring control of PM₁₀ emissions from dust generating operations to have on-site at least one Fugitive Dust Control Technician trained at all times during primary dust generating operations. The Fugitive Dust Control Technician has full authority to ensure that dust control measures are implemented on site. The Fugitive Dust Control Technician shall be responsible for managing dust prevention and dust control on the site.
- Specify requirements for operation of watering systems.

In addition, the Maricopa County Air Quality Department will evaluate the method of data reduction for opacity observations and may revise Rule 310 and Rule 316 as needed.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513. A.R.S. 49-474.05 (E) established requirements for a Dust Control Coordinator and training programs for the suppression of PM₁₀ emissions from sources of PM₁₀.

Implementation Schedule:

Rule 310 Revisions:

April 2007 - Sept. 2007 Draft rule revisions and conduct stakeholder workshops

December 2007 Oral proceeding on rule revisions
March 2008 Board consideration of rule revisions

Rule 316 Revisions:

April 2007 - Sept. 2007

Draft rule revisions and conduct stakeholder workshops

December 2007 March 2008 Oral proceeding on rule revisions Board consideration of rule revisions

Level of Personnel and Funding Allocated for Implementation:

No change in level of personnel or funding is anticipated for rule development activities. The Maricopa County Air Quality Department Dust Compliance Division inspects and determines compliance at fugitive dust sources. A detailed description of the Dust Compliance Division level of personnel for the dust control permit compliance program is contained in Maricopa County Measure # 8.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million.

Enforcement Program:

Rule 310 requirements are administered through a visual inspection program and a permit program which includes review of permits, inspection of facilities, performance of compliance test methods, and review of records and activities.

Rule 316 requirements are administered through a permit program, which includes: review of permits, inspection of facilities, source testing of equipment, and review of records and activities.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

<u>Monitoring Program:</u> The Air Quality Department tracks the number of permits and inspections of Rule 310 and Rule 316 sources; the number of enforcement actions; amount of penalties assessed; and compliance with the 24-hour PM_{10} standard. The Department will continue to track this information and will perform a rule effectiveness study in 2009 to evaluate compliance with Rule 310 and Rule 316.

Measure Title:

• MAG Measure 4. Dedicated enforcement coordinator for unpaved roads, unpaved parking, and vacant lots

• MAG Measure 37. Strengthen and increase enforcement of Rule 310.01 for vacant lots

<u>County Measure Description:</u> In January 2006, Maricopa County assigned a supervisor to oversee the vacant lot program. Additionally, Maricopa County will dedicate additional resources to enforcement of Rule 310.01 and increase the number of proactive vacant lot inspections.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513. A.R.S. § 49-474.01(A) (11) authorizes the county to enter the vacant lots to stabilize the disturbed surface at the expense of the owner and issue notices of violation and fines plus the cost of stabilization.

Implementation Schedule:

Staffing:

January 2006 Assigned supervisor to oversee the vacant lot program

December 2007 Hire 3 inspectors, 3 supervisors, 1 administrative support staff, and 1 administrative

support supervisor for the dust control vacant lot program

June 2008 Hire 4 inspectors and 2 administrative support staff for the dust control vacant lot program

Internal Policy/On-call services contract for stabilization:

March 31, 2008 Develop procedures for implementation of on-call stabilization services

March 31, 2008 On-call stabilization services contract in place

Level of Personnel and Funding Allocated for Implementation: The Maricopa County Air Quality Department Dust Compliance Division inspects and determines compliance at fugitive dust sources including: Rule 310 (Fugitive Dust), Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways) and the majority of Rule 316 (Nonmetallic Mineral Mining) sources. Currently, the Dust Compliance Division has a division manager and the following level of personnel for the dust control vacant lot (Rule 310.01) program:

Position	Dust Control Vacant Lot (Rule 310.01) Personnel
AQ Inspector Supervisor	-
AQ Inspector	10
Administrative Support	-
Total	10

The Maricopa County Air Quality Department will seek approval to hire 7 dust control vacant lot compliance inspectors, 3 compliance supervisors, 3 administrative support staff, and 1 administrative supervisor to support the increased number of vacant lot inspections.

The Air Quality Department's Air Quality Enforcement Division has 1 division manager, 5 enforcement officers, and 1 administrative support personnel. The Department will seek to hire 5 additional enforcement officers.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million. Annual costs for additional dust control vacant lot personnel are estimated to be \$929,000. Annual costs for additional enforcement officers are estimated to be \$406,000.

Enforcement Program: Rule 310.01 requirements are administered through an inspection program which includes stabilization limitation requirements. Enforcement starts with a letter to the parcel owner. Owners/operators are required to submit, in writing, to the Air Quality Department a description of the control measures(s) to be implemented within 30 days. If no contact has been made, no control measures have been instituted, or stabilization has not been established within 60 days of receipt then a notice of violation is issued to the parcel owner.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation. Senate Bill 1552 authorizes the county to enter the lot to stabilize the disturbed surface, issue notices of violation, and collect monetary penalties that include the cost of stabilization.

<u>Monitoring Program:</u> The Air Quality Department tracks the number of vacant lot inspections, number of enforcement actions, amount of penalties assessed, and compliance with the 24-hour PM_{10} standard. The Department will continue to track this information and will perform a rule effectiveness study in 2009 to evaluate this program.

<u>Measure Title:</u> MAG Measure 5. Establish a certification program for Dust Free Developments to serve as an industry standard

<u>County Measure Description:</u> Maricopa County will support the Arizona Department of Environmental Quality (ADEQ)'s efforts to develop a program to certify and publicize companies that routinely demonstrate exceptional efforts to reduce airborne dust. As the regulatory authority, Maricopa County will provide verifications of eligible companies as necessary to implement this program and as requested by ADEQ. Maricopa County will publicize the program as requested by ADEQ.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

The Air Quality Department will work under the schedule developed by the ADEQ.

<u>Level of Personnel and Funding Allocated for Implementation:</u> No change in funding is anticipated for this measure.

Enforcement Program: Not applicable, this is a voluntary incentive-based program.

<u>Monitoring Program:</u> The Maricopa County Air Quality Department will track the number of verifications provided to ADEQ.

Measure Title: MAG Measure 7. Conduct mobile monitoring to measure PM₁₀ and issue NOVs

<u>County Measure Description:</u> The Maricopa County Air Quality Department will develop a comprehensive mobile air monitoring program that can test for a broad spectrum of ambient air pollutants including criteria and non-criteria pollutants, hazardous air pollutants, and toxic air contaminants.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. § 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

March - June 2008 Hire and train engineers to administer the mobile air monitoring activities

September 2008 Mobile monitoring unit will be field deployed

<u>Level of Personnel and Funding Allocated for Implementation:</u> The Maricopa County Air Quality Department will seek approval to hire 2 chemical engineers and 1 environmental engineer to administer the mobile air monitoring activities.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million. Annual costs associated with new engineering positions are estimated to be \$290,000. One-time costs to equip the mobile monitoring unit are estimated to be \$500,000. Annual operating costs of the mobile monitoring unit are estimated to be \$40,000.

Enforcement Program: Maricopa County will test and analyze ambient concentrations and a broad spectrum of air pollutants in the stack gases emitted from the various stationary sources within Maricopa County. The Air Quality Department will assess ambient concentrations in industrialized areas and respond to complaints where the need arises.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

<u>Monitoring Program:</u> The Air Quality Department will track the number of times the mobile monitoring unit is deployed for monitoring and the number of enforcement actions.

Measure Title: MAG Measure 8. Conduct nighttime and weekend inspections

<u>County Measure Description:</u> Implement proactive and complaint inspections of nonpermitted and permitted PM_{10} sources during non-daylight hours and on weekends through a combination of an on-call system and shift work.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. § 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

January - June 2008 June - September 2008 Begin conducting random and after hours inspections

Begin implementation of after hours, weekend, and on-call inspections

<u>Level of Personnel and Funding Allocated for Implementation:</u> No change in level of personnel is anticipated for implementing after hours, weekend, and on-call inspections; however, pay differential is expected to result in increased costs. The Air Quality Department anticipates assigning 5 inspectors and 1 supervisor to work 2nd shift, having 5 inspectors on-call on weekends and 2 inspectors on-call on 3rd shift.

The Maricopa County Air Quality Department Dust Compliance Division inspects and determines compliance at fugitive dust sources including: Rule 310 (Fugitive Dust), Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways) and the majority of Rule 316 (Nonmetallic Mineral Mining) sources. Maricopa County Measures #4 and # 8 describe existing Dust Compliance Division FTEs and new FTEs the Air Quality Department will seek to hire to address increased inspection frequencies for permitted facilities and vacant lots.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million. Additional funding requirements are anticipated from hiring additional inspectors, supervisors, and administrative personnel. The costs associated with increased personnel are detailed in Maricopa County Measures #4 and #8.

Enforcement Program: Rule 310 requirements are administered through a visual inspection program and a permit program which includes review of permits, inspection of facilities, performance of compliance test methods, and review of records and activities.

Rule 310.01 requirements are administered through a visual inspection program which includes stabilization limitation requirements. Enforcement starts with a letter to the parcel owner. Owners/operators are required to submit, in writing, to the Air Quality Department a description of the control measures(s) to be implemented within 30 days. If no contact has been made, no control measures have been instituted, or stabilization has not been established within 60 days of receipt then a notice of violation is issued to the parcel owner.

Rule 316 requirements are administered through a permit program, which includes: review of permits, inspection of facilities, source testing of equipment, and review of records and activities.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

Monitoring Program: The Air Quality Department tracks the number of permits and inspections of Rule 310, Rule 310.01, and Rule 316 sources; the number of enforcement actions; amount of penalties assessed; and compliance with the 24-hour PM₁₀ standard. The Department will continue to track this information and will perform a rule effectiveness study in 2009 to evaluate compliance with Rule 310, 310.01, and 316.

Measure Title:

MAG Measure 9. Increase inspection frequency for permitted facilities

MAG Measure 10. Increase number of proactive inspections in areas of highest PM₁₀ emissions densities

MAG Measure 55. Increase enforcement in the areas where PM₁₀ violations continue to occur, along with

efforts throughout the region

County Measure Description: This measure will increase the number of proactive inspections conducted at Rule 310 and Rule 316 permitted facilities as follows:

• Increase inspection frequency to 3 inspections per year (from 1) for dust control permitted sources with sites < 10 acres

- Increase inspection frequency to 8 inspections per year (from 5) for dust control permitted sources with sites ≥10 acres
- Increase inspection frequency to 5 inspections per year (from 4) for nonmetallic mineral processing plants, concrete plants, asphaltic concrete plants, and yard/stockpiling sources.

In addition, the Maricopa County Air Quality Department conducts proactive inspections on a nonattainment areawide basis to determine compliance with all requirements. The Air Quality Department also prioritizes inspections based on the following factors: complaints received, number of sources, number of NOVs issued, and ambient air monitoring data. For example, when a high risk dust control action forecast is issued by ADEQ or when monitored readings become elevated, inspectors conduct source surveillance beginning in areas of high emission densities and fanning out from there to ensure consistent compliance throughout the nonattainment area.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

Staffing:

January 2008 Hire 9 compliance inspectors, 3 compliance supervisors, 2 permit technicians, and 3

administrative support supervisors for the dust control permit compliance (Rule 310)

program

June 2008 Hire 25 compliance inspectors, 1 compliance supervisors, and 4 permit technicians for

the dust control permit compliance (Rule 310) program

June 2008 Hire 5 compliance inspectors to inspect Rule 316 sources (nonmetallic mineral

processing plants, concrete plants, asphaltic concrete plants, and yard/stockpiling sources)

Rule 280 revisions:

Aug. - Sept. 2007 Draft rule revisions and conduct stakeholder workshops

December 2007 Oral proceeding on rule revisions

March 2008 Board consideration of rule revisions

Level of Personnel and Funding Allocated for Implementation: The Maricopa County Air Quality Department Dust Compliance Division inspects and determines compliance at fugitive dust sources including: Rule 310

(Fugitive Dust), Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways) and most Rule 316 (Nonmetallic Mineral Processing) sources. Currently, the Dust Compliance Division has 1 division manager and the following level of personnel for the dust control permit compliance program (Rule 310).

Position	Dust Control Permit Compliance (Rule 310) Personnel
AQ Inspector Supervisor	5
AQ Inspector	20
Administrative Support	3
Total	28

The Maricopa County Air Quality Department will seek approval to hire the following personnel to address increased inspection frequency for permitted facilities:

- 34 additional dust control permit compliance inspectors, 4 compliance supervisors, 6 permit technicians, and 3 administrative support supervisors.
- 5 compliance inspectors to inspect nonmetallic mineral processing plants, concrete plants, asphaltic concrete plants, and yard/stockpiling facilities.

The Air Quality Department's Air Quality Enforcement Division has 1 division manager, 5 enforcement officers, and 1 administrative support personnel. The Department will seek to hire 5 additional enforcement officers.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million. Annual costs associated with increased personnel are listed below:

- Additional dust control permit compliance personnel = \$2.8 million
- Additional compliance inspectors for nonmetallic mineral processing plants, concrete plants, asphaltic concrete plants, and yard/stockpiling = \$373,000.
- Additional enforcement officers = \$406,000

Maricopa County will evaluate revenues and expenditures anticipated to meet the Five Percent Plan commitments and will propose an increase in fees or additional resources by December 2007, if necessary.

Maricopa County Measure # 4 describes existing and new dust control vacant lot compliance personnel the Air Quality Department will seek to hire.

Enforcement Program: Rule 310 requirements are administered through a visual inspection program and a permit program which includes review of permits, inspection of facilities, performance of compliance test methods, and review of records and activities.

Rule 316 requirements are administered through a permit program, which includes: review of permits, inspection of facilities, source testing of equipment, and review of records and activities.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

Maricopa County Measure #4 describes the enforcement program for Rule 310.01.

In addition, Air Quality Department inspectors conduct surveillance of fugitive dust sources in the county on days that are deemed high risk for PM₁₀. Sources observed violating the PM₁₀ standards will be issued notices of violation.

Monitoring Program: The Air Quality Department tracks the number of dust control permits and the number of nonmetallic mineral processing (Rule 316) sources; the number of dust control permit compliance (Rule 310) and nonmetallic mineral processing (Rule 316) inspections; the number of enforcement actions; amount of penalties assessed; and compliance with the 24-hour PM₁₀ standard. The Department will continue to track this information and will perform a rule effectiveness study in 2009 to evaluate compliance with Rule 310 and Rule 316. Maricopa County Measure # 4 describes the Air Quality Department monitoring program for Rule 310.01.

Measure Title: MAG Measure 11. Notify violators more rapidly to promote immediate compliance

<u>Measure Description</u>: It is standard practice for Maricopa County dust compliance inspectors who observe potential violations (e.g., opacity or trackout levels that are approaching rule limits) to make reasonable efforts to inform a person on-site or call the permit holder. These observations are recorded on the inspection form so that measures can be taken to prevent, reduce, or mitigate dust generation before a violation occurs. Maricopa County will continue to provide this service.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

Not applicable - this is an on-going practice.

Level of Personnel and Funding Allocated for Implementation: No change in level of personnel or funding is anticipated for this measure as this is an ongoing practice administered by the Maricopa County Air Quality Department Dust Compliance Division. The Dust Compliance Division inspects and determines compliance at fugitive dust sources including: Rule 310 (Fugitive Dust), Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways) and the majority of Rule 316 (Nonmetallic Mineral Mining) sources. Maricopa County Measures # 4 and # 8 describe existing Dust Compliance Division FTEs and new FTEs the Air Quality Department will seek to hire to address increased inspection frequencies for permitted facilities and to strengthen enforcement of vacant lots.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million.

Enforcement Program: Maricopa County Measures # 4 and # 8 detail the enforcement program for Rule 310, 310.01, and Rule 316 and the Air Quality Department's enforcement options.

<u>Monitoring Program:</u> Maricopa County Measures # 4 and # 8 detail the Air Quality Department monitoring program for Rule 310, Rule 310.01, and Rule 316.

Measure Title: MAG Measure 12. Provide timely notification regarding high pollution days

<u>County Measure Description:</u> Maricopa County will continue to work with the Arizona Department of Environmental Quality and Valley Metro to provide notifications via media outlets, freeway signs, and agency websites when a High Pollution Advisory or High Pollution Watch is issued by ADEQ. Maricopa County will continue to notify industry, cities, and County departments via email when ADEQ forecasts a high risk level for PM₁₀ and Maricopa County will continue to expand its email distribution list.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule: Not applicable - this is an on-going effort.

<u>Level of Personnel and Funding Allocated for Implementation:</u> No change in funding is anticipated for this measure.

Enforcement Program: Not applicable.

Monitoring Program: The Air Quality Department will track the number high pollution advisories and high pollution watches issued.

Measure Title: MAG Measure 13. Develop a program for subcontractors

<u>Measure Description</u>: Establish a subcontractor registration program which includes issuance of a registration number and assessment of a registration fee.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. § 49-502, 49-511, 49-512 and 49-513. A.R.S. § 49-474.06 authorizes the County to establish a subcontractor registration program and assess a registration fee.

Implementation Schedule:

Rule 200 revisions:

April 2007 - Sept. 2007 Draft rule revisions and conduct stakeholder workshops

December 2007 Oral proceeding on rule revisions

March 2008 Board consideration of rule revisions

Rule 280 revisions:

August - September 2007 Draft rule revisions and conduct stakeholder workshops

December 2007 Oral proceeding on rule revisions
March 2008 Board consideration of rule revisions

Database Development:

March 2008 Database Development

Staffing:

December 2007 Hire 4 permit technicians to administer the subcontractor registration

program.

Level of Personnel and Funding Allocated for Implementation:

The Maricopa County Air Quality Department Dust Compliance Division will administer the subcontractor registration program. A detailed description of the Dust Compliance Division level of personnel for the dust control permit compliance program (Rule 310) is contained in Maricopa County Measure #8. Specific to the subcontractor registration program, the Air Quality Department will seek approval to hire 4 permit technicians to administer the subcontractor registration program.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million.

Start-up costs for database development are estimated to be \$88,000. Annual costs associated with 4 additional permit technicians and database maintenance are estimated to be \$232,000.

Enforcement Program: Rule 310 requirements are administered through a visual inspection program and a permit program which includes review of permits, inspection of facilities, performance of compliance test methods, and review of records and activities.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

<u>Monitoring Program:</u> The Air Quality Department will track the number of subcontractors registered and notices of violations issued to subcontractors.

Measure Title:

• MAG Measure 14. Reduce dragout and trackout emissions from nonpermitted sources

• MAG Measure 32. Pave or stabilize existing public dirt roads and alleys

• MAG Measure 40. Ability to assess liens on parcels to cover the costs of stabilizing them

• MAG Measure 45. No visible emissions across the property line

<u>County Measure Description:</u> The Maricopa County Air Quality Department will update Rule 310.01 and may include the following provisions:

- Trackout provisions for nonpermitted sources
- Lower the threshold (vehicles per day) and specify criteria that trigger the requirement to pave or stabilize public dirt roads.
- Reasonable written notice to the owner that the unpaved disturbed surface of a vacant lot is required to be stabilized. Authority for the county to enter the lot to stabilize the disturbed surface at the expense of the owner if the vacant lot has not been stabilized by the day set for compliance. Methods for stabilization, the actual cost of stabilization, and the fine that may be imposed for a violation of this section. [Senate Bill 1552 A.R.S. § 49-474.01(A)(11)]
- Property line provisions for nonpermitted sources

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513. A.R.S. § 474.01 (A)(11) requires adoption of rule provisions by March 31, 2008, and enforcement of the provisions by October 1, 2008, regarding stabilization of disturbed surfaces of vacant lots that include written notice to the owner that a vacant lot is required to be stabilized, authority for the county to enter the lot to stabilize at the expense of the owner, methods fro stabilization, the actual cost of stabilization, and the fine that may be imposed for violations.

Implementation Schedule:

Rule 310.01 Revisions:

April 2007 - Sept. 2007 Draft rule revisions and conduct stakeholder workshops

December 2007 Oral proceeding on rule revisions
March 2008 Board consideration of rule revisions

<u>Level of Personnel and Funding Allocated for Implementation:</u> No change in level of personnel or funding is anticipated for rule development activities. Maricopa County Measure #4 describes existing and new dust control vacant lot personnel the Air Quality Department will seek to hire to address increased enforcement of Rule 310.01 for vacant lots.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million.

Enforcement Program: Rule 310.01 requirements are administered through an inspection program which includes stabilization limitation requirements. Enforcement starts with a letter to the parcel owner. Owners/operators are required to submit, in writing, to the Air Quality Department a description of the control measures(s) to be implemented within 30 days. If no contact has been made, no control measures have been instituted, or stabilization has not been established within 60 days of receipt then a notice of violation is issued to the parcel owner.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation. Senate Bill 1552 authorized the county to enter the lot to stabilize the disturbed surface, issue notices of violation, and collect monetary penalties that include the cost of stabilization.

Monitoring Program: The Air Quality Department tracks the number of vacant lot inspections, number of enforcement actions, amount of penalties assessed, and compliance with the 24-hour PM₁₀ standard. The Department will continue to track this information and will perform a rule effectiveness study in 2009 to evaluate compliance with Rule 310.01.

Measure Title: MAG Measure 18. Fully implement Rule 316

<u>Measure Description</u>: The Rule 316 litigation was settled on June 20, 2007. As a result, the June 8, 2005, version of Rule 316 was in place as of the settlement date. Maricopa County will enforce the provisions of Rule 316 for nonmetallic mineral processing sources of PM_{10} .

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. § 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

June 20, 2007

Rule 316 litigation settled. The June 8, 2005, version of Rule 316 is in place and enforceable.

<u>Level of Personnel and Funding Allocated for Implementation:</u> Maricopa County Measure #8 contains a detailed description of level of personnel and funding for Rule 316.

Enforcement Program: Rule 316 requirements are administered through a permit program, which includes: review of permits, inspection of facilities, source testing of equipment, and review of records and activities.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

<u>Monitoring Program:</u> The Air Quality Department tracks the number of nonmetallic mineral processing permits, Rule 316 inspections, enforcement actions, amount of penalties assessed, and compliance with the 24-hour PM_{10} standard. The Department will continue to track this information and will perform a rule effectiveness study in 2009 to evaluate this program.

Measure Title: MAG Measure 21. Ban or discourage use of leaf blowers on high pollution advisory days

Measure Description: This measure would restrict or prohibit the use of leaf blowers on days when the Arizona Department of Environmental Quality (ADEQ) issues a High Pollution Advisory (HPA). Maricopa County Facilities Management Department will insert a provision into bid specifications for landscape maintenance prohibiting the use of leaf blowers on any high pollution advisory day forecast by ADEQ while in vacuum mode and prohibit those contractors from blowing landscape debris into public roadways at any time.

Responsible Agency and Authority for Implementation:

- A.R.S. § 11-251 (General Powers of Board of Supervisors)
- A.R.S. § 11-201(A), (County contracting authority)
- A.R.S. § 11-877 (Air quality control measures)

Implementation Schedule:

Current contracts for landscape maintenance contain requirement prohibiting use of leaf blowers on HPA days. Existing contracts will be amended to reflect the prohibition of blowing of debris into public roadways.

Contractors must agree to contract change and we do not believe there will be a financial impact but uncertain until contract change has been agreed to. Contract changes should take approximately 90 days.

<u>Level of personnel and Funding Allocated for Implementation:</u> Ongoing program funded through existing County budget. No change in funding is anticipated.

Enforcement Program: Contract oversight will be provided by the Maricopa County Facilities Management Department and user agencies. Quality Assurance inspectors monitor the contractor on the job. Fines may be assessed for non-compliance with contract specifications.

<u>Monitoring Program:</u> Maricopa County Facilities Management Department will submit annual compliance reports to Maricopa County Air Quality Department as requested.

Measure Title: MAG Measure 25. Ban leaf blowers from blowing debris into streets

Measure Description: The Maricopa County Air Quality Department will adopt, implement, and enforce an ordinance by March 31, 2008, that bans the blowing of landscape debris into public roadways and prohibits the operation of leaf blowers except on surfaces that have been stabilized with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, or grass or other continuous vegetative cover, or any combination of those stabilizers.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 11-877 to adopt, implement and enforce an ordinance that bans the blowing of landscape debris into public roadways and prohibits the operation of leaf blowers on un-stabilized surfaces.

Implementation Schedule:

September 2007 March 2008 Draft ordinance and conduct stakeholder workshops

Board consideration of ordinance

<u>Level of Personnel and Funding Allocated for Implementation:</u> Complaints will be handled by Maricopa County Air Quality Department's Dust Compliance Division. This ordinance will be difficult to enforce due to the relatively brief period of time to perform leaf blower activities. The Air Quality Department anticipates utilizing existing Dust Compliance Division staff because of their proximity to the activity in the field. A detailed description of level of personnel and funding for the Dust Compliance Division are contained in Maricopa County Measures #4 and #8.

Enforcement Program: Leaf blower complaints will be handled by the Air Quality Department's Dust Compliance Division. This is a difficult activity to enforce due to the relatively brief period of time to perform the activity. The Air Quality Department anticipates utilizing existing dust compliance staff because of their proximity to the activity. Dust compliance staff will be in the field doing surveillance as well as educating operators and handing out information brochures.

ARS 11-877 infers that the Board can establish penalties for violating the ordinance. In addition, the County's general ordinance authority in ARS 11-251.05 (A)(2) provides for a fine or imprisonment not to exceed the maximum limitations for a class 1 misdemeanor.

Monitoring Program: The Air Quality Department will track the number of leaf blower related complaints received and the number of enforcement actions.

Measure Title: MAG Measure 29. Sweep streets with PM₁₀ certified street sweepers

<u>Measure Description</u>: This measure requires all new or renewed contracts for street sweeping on county roads must be conducted with street sweepers that meet the South Coast Air Quality Management District Rule 1186 Street Sweeper Certification Specifications for pick-up efficiency and PM₁₀ emissions.

Authority for Implementation:

Arizona Revised Statutes (A.R.S.) § 11-251 (General Powers of Board of Supervisors)

A.R.S. § 28-6705 (Public road and street maintenance)

A.R.S. § 28-6708 (Jurisdiction of streets; unincorporated town)

A.R.S. § 49-474.01(A)(8)

Implementation Schedule:

July 2007

Existing contract meets requirements.

<u>Level of Personnel and Funding Allocated for Implementation:</u> Funding is allocated through the annual budget process. No change in existing funding is anticipated. CMAQ funding will be requested to purchase PM₁₀ certified sweepers in September 2007 for special purpose and exceptional event sweeping.

Enforcement Program: MCDOT will oversee the implementation of this measure.

Monitoring Program: MCDOT will submit annual progress reports to MCAQD as requested.

Measure Title: MAG Measure 31. Pave or stabilize existing unpaved parking lots

<u>County Measure Description:</u> The Maricopa County Planning & Development Department requires the following dustproof paving for parking areas in unincorporated areas of Maricopa County under existing zoning ordinances:

- Paved parking for new multi-family, commercial, industrial, and other kinds of non-single family residential uses and paving or surfacing with ABC material for new single family residential uses [Maricopa County Zoning Ordinance Chapter 11, Section 1102].
- Paving or surfacing with ABC for any existing use which requests permits for expansion [Maricopa County Zoning Ordinance Chapter 11, Section 1102.7].
- Paved parking for special uses [Maricopa County Zoning Ordinance Chapter 13, Section 1301.5.3].

The Maricopa County Air Quality Department will conduct proactive and complaint-based inspections of existing parking lots located within unincorporated areas of Maricopa County and commence enforcement as necessary to require dustproof paving methods.

Responsible Agency and Authority for Implementation: The Maricopa County Planning and Development Department derives its authority to adopt and enforce zoning ordinance provisions from A.R.S. § 11-808(A) and A.R.S. § 11-821(B). Maricopa County Zoning Ordinance Chapter 11, Section 1102 establishes parking regulations for unincorporated areas of Maricopa County. Maricopa County Zoning Ordinance Chapter 13, Section 1301 establishes parking requirements for special uses.

The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

A.R.S. § 49-474.01(A)(5) and (6) require adoption or amendment of codes or ordinances by March 31, 2008, and commence enforcement as necessary by October 1, 2008, to require dustproof paving methods for the following: 1) Parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units; and 2) Parking, maneuvering, ingress and egress areas that are 3,000 square feet or more in size at residential buildings with four or fewer units.

Implementation Schedule:

Implementation Schedule:		
On-going	In unincorporated areas of Maricopa County, Maricopa County Zoning Ordinance Chapter 11, Section 1102.7.1 and 1102.7.2 require paved parking for new multi-family, commercial, industrial, and other kinds of non-single family residential uses. Paving or surfacing with ABC material is required for new single family residential use. Paving or surfacing with ABC is also required for any existing use which requests permits for expansion. The Maricopa County Planning and Development Department enforces these requirements through its authority to issue zoning and building permits.	
On-going	Continue complaint inspections of existing unpaved parking areas and commence enforcement as necessary to require dust proof paving methods.	
June 2008	Hire 4 dust control vacant lot compliance inspectors to conduct proactive and complaint inspections of unpaved parking lots.	

October 1, 2008

Begin proactive inspections of existing high volume use unpaved parking areas located within unincorporated areas of Maricopa County and commence enforcement as necessary to require dustproof paving methods.

Level of Personnel and Funding Allocated for Implementation: The Maricopa County Air Quality Department Dust Compliance Division inspects and determines compliance at fugitive dust sources including: Rule 310 (Fugitive Dust), Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways) and the majority of Rule 316 (Nonmetallic Mineral Mining) sources. Currently, the Dust Compliance Division has a division manager and the following level of personnel for the dust control vacant lot (Rule 310.01) program:

	Dust Control Vacant Lot (Rule 310.01) Personnel	
Position		
AQ Inspector Supervisor	-	
AQ Inspector	10	
Administrative Support	-	
Total	10	

The Maricopa County Air Quality Department will seek approval to hire 4 dust control vacant lot compliance inspectors to conduct proactive inspections of unpaved parking lots. Assuming that the vast majority of these parcels are already at grade, the Maricopa County Planning and Development Department estimates that annually 1,360 commercial parcels will require drainage review and would require an increase in 4 to 5 drainage plan reviewers. This estimate does not take into account any residential parcel load.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million. Annual costs associated with 4 additional dust control vacant lot inspector to conduct proactive inspections of unpaved parking lots are estimated to be \$255,000. Annual costs associated with 4 to 5 additional drainage plan reviewers are estimated at an annual cost of \$423,135.

Enforcement Program: Rule 310.01 requirements are administered through an inspection program which includes stabilization limitation requirements. The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

<u>Monitoring Program:</u> The Air Quality Department will track the number of unpaved parking lot inspections, notices of violation issued, enforcement actions taken, amount of penalties assessed, and compliance with the 24-hour PM_{10} standard.

Measure Title: MAG Measure 32. Pave or stabilize existing public dirt roads and alleys

Measure Title: Pave or stabilize existing public dirt roads and alleys

<u>Measure Description</u>: This measure will update a plan for paving or stabilizing targeted County dirt roads in compliance with Rule 310.01 and Senate Bill 1552.

Authority for Implementation:

Arizona Revised Statutes (A.R.S.) § 11-251 (General Powers of Board of Supervisors)

A.R.S. § 28-6705 (Public road and street maintenance)

A.R.S. § 28-6708 (Jurisdiction of streets; unincorporated town)

A.R.S. § 49-474.01(A)(4)

Implementation Schedule:

July 2007 Current Low Volume Road Program gives priority to existing public dirt roads

that carry 150 or more vehicles per day. Approximately 19 miles of dirt roads

will be paved over the next 4 fiscal years (with average ADT of 201).

December 2007 Update to plan to incorporate revisions to A.R.S. § 49-474.01(A)(4).

<u>Level of Personnel and Funding Allocated for Implementation:</u> Currently funded at \$3 million per year. Funding is allocated through the annual budget process.

Enforcement Program: MCDOT will oversee the implementation of this measure.

Monitoring Program: MCDOT will submit annual progress reports to MCAQD as requested.

Measure Title: MAG Measure 33. Limit speeds to 15 miles per hour on high traffic dirt roads

<u>Measure Description</u>: This measure would require 15 mph speed limit signs to be posted on dirt roads in the PM₁₀ nonattainment area that carry more than 50 ADT. Due to limitations in the Manual for Uniform Traffic Control Devices, in some cases it will not be possible to lower the limit more than 10 mph under the existing limit, which may be as high as 55mph.

Authority for Implementation:

Arizona Revised Statutes (A.R.S.) § 11-251 (General Powers of Board of Supervisors)

A.R.S. § 28-6705 (Public road and street maintenance)

A.R.S. § 28-6708 (Jurisdiction of streets; unincorporated town)

A.R.S. § 28-703 (Alteration of speed limits by local authority)

Implementation Schedule:

July 2007 Establish criteria to post appropriate speed limits on select roads

September – December 2007 Install speed limit signs on selected roads.

<u>Level of Personnel and Funding Allocated for Implementation:</u> Funding is allocated through the annual budget process. An estimated \$250,000 for initial sign installation will be required, and an additional \$85,000 per year for sign maintenance and replacement would be needed. No additional personnel are anticipated.

Enforcement Program: Maricopa County Sheriff will be responsible for enforcement.

Monitoring Program: The percentage of county maintained dirt roads with speed limit signs installed.

Measure Title: MAG Measure 35. Pave or stabilize unpaved shoulders

<u>Measure Description</u>: This measure would require paving or stabilizing dirt shoulders on paved public roads that carry a high level of traffic

Authority for Implementation:

Arizona Revised Statutes (A.R.S.) § 11-251 (General Powers of Board of Supervisors)

A.R.S. § 28-6705 (Public road and street maintenance)

A.R.S. § 28-6708 (Jurisdiction of streets; unincorporated town)

A.R.S. § 49-474.01(A)(4)

Implementation Schedule:

July 2007

Pave 5.1 miles of high traffic dirt road shoulders.

September 2007

Commence stabilization on highest priority shoulders, pave 8.5 miles by December 31, 2007, pave approximately an additional 22 miles of shoulders with an estimated average

ADT of 7600 within the next 4 fiscal years.

<u>Level of Personnel and Funding Allocated for Implementation:</u> Funding is allocated through the annual budget process. The 5.1 and 8.5 mile projects are funded in current year budget. An estimated additional \$2 million dollars will be needed in FY2009 budget to complete this measure.

Enforcement Program: MCDOT will oversee the implementation of this measure.

Monitoring Program: MCDOT will submit annual progress reports to MCAQD as requested.

Measure Title: MAG Measure 36. Create a fund for paving and stabilizing in high pollution areas

County Measure Description: The Maricopa County Air Quality Department's Air Quality Enforcement Division has in the past incorporated supplemental environmental projects (SEP) into settlement agreements. The Air Quality Enforcement Division will enhance its existing SEP program to address the PM₁₀ nonattainment area. The Air Quality Department will initiate a stakeholder process to identify a list of potential pollution prevention and/or pollution reduction SEPs that can be funded by a company or individual to mitigate part of a civil penalty assessed by the Air Quality Enforcement Division. The Air Quality Department will post the list of potential SEPs on its website.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

September - December 2007 Initiate a stakeholder process to identify a list of potential supplemental

environmental projects.

January - March 2008 Post on the department's website an "idea bank" of supplemental

environmental projects for consideration by companies or individuals who

elect to mitigate civil penalties using SEPs

<u>Level of Personnel and Funding Allocated for Implementation:</u> No change in funding is anticipated for this measure.

Enforcement Program: Not applicable - this is a voluntary program.

<u>Monitoring Program:</u> The Air Quality Department currently tracks the number of supplemental environmental projects and will continue to track this information.

Measure Title:

MAG Measure 22. Reduce off-road vehicle use in areas with high off-road vehicle activity

MAG Measure 38. Restrict vehicular use and parking on vacant lots

MAG Measure 39. Enhanced enforcement of trespass ordinances and codes

County Measure Description:

The Maricopa County Air Quality Department will adopt an ordinance(s) to restrict off-road recreational motor vehicle use on unpaved surfaces and vehicular use and parking on vacant lots.

In addition, the Department will coordinate with the Maricopa County Sheriff's Office to conduct enforcement initiatives which will involve enforcement of ordinances and rules to prevent and discourage off-road vehicle use and trespass on vacant lots. The initiatives will be prioritized based on complaints and in areas with high off-road vehicle and trespass activity.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. 11-251 (43) to adopt and enforce necessary ordinances to regulate off-road recreational motor vehicles that are operated within the county on public lands without lawful authority or on private lands without the consent of the lawful owner or that generate air pollution.

Implementation Schedule:

Enforcement Initiative:

July - November 2007 Develop procedures and coordinate efforts with other jurisdictions

January - March 2008 Identify heavy use areas and research parcel ownership. Contact property owners

for installation of control measures, 'no trespass' signs, and obtain authority to cite

trespassers without owner presence.

April 2008 Begin enforcement initiatives and outreach

Ordinance(s):

September 2007 Draft ordinance and conduct stakeholder workshops

March 2008 Board consideration of ordinance

Level of Personnel and Funding Allocated for Implementation: No change in level of personnel or funding is anticipated for the ordinance development activities. The Maricopa County Air Quality Department Dust Compliance Division will coordinate with the Maricopa County Sheriff's Office on the enforcement initiatives. Maricopa County Measure # 4 describes existing dust control vacant personnel and new personnel the Department will see to hire for the dust control vacant lot program.

The Air Quality Department's revenue for the air quality program is estimated to be \$14.4 million. Start-up costs for database development are estimated to be \$133,500. Annual database maintenance costs are estimated to be \$73,300.

Enforcement Program: The enforcement process will be described in the ordinance. The Department anticipates that a citation and civil penalty will be issued to off-road recreational vehicle operators and individuals in violation of the ordinance.

<u>Monitoring Program:</u> The Air Quality Department will track the number of enforcement initiatives and the number of citations issued.

Measure Title:

MAG Measure 41. Increase fines for open burning

MAG Measure 42. Restrict use of outdoor fireplaces and pits and ambience fireplaces in the hospitality industry

County Measure Description:

- Senate Bill 1552 increased the fine for open burning from \$25 to \$500 for the first violation [A.R.S. § 49-501(G)].
- The Maricopa Air Quality Department will revise the Maricopa County Residential Woodburning Restriction Ordinance to prohibit wood burning chimineas, outdoor fire pits, and similar outdoor fires on those days for which the county has issued a no burn day restriction in accordance with Senate Bill 1552 [A.R.S. § 49-501(F)].
- The Maricopa County Air Quality Department will revise Maricopa County Rule 314 to remove fires for recreational purposes from the exemptions of unlawful burning in accordance with Senate Bill 1552 [A.R.S. § 49-501(B)(1)] and include restrictions on ambience fireplaces in the hospitality industry.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-501 to prohibit unlawful open burning. A.R.S. § 11-871 authorizes Maricopa County to adopt, implement and enforce an ordinace relating to residential wood burning restrictions.

Implementation Schedule:

Residential Woodburning Restriction Ordinance and Rule 314 Revisions:

July 2007 Draft ordinance and rule revisions and conduct stakeholder workshops

September 2007 Oral proceeding on ordinance and rule revisions
January 2008 Board consideration of ordinance and rule revisions

Level of Personnel and Funding Allocated for Implementation: No change in level of personnel or funding is anticipated for ordinance or rule development activities. The Maricopa County Air Quality Department Dust Compliance Division enforces Rule 314 through a burn permit program and responds to illegal burning complaints. The current and proposed new personnel for the Dust Compliance Division are detailed in Maricopa County Measures # 4 and # 8.

The Maricopa County Air Quality Department's FY 2007-08 revenue is approximately \$14.4 million.

Enforcement Program: Open burning requirements are administered through a burn permit program, which includes: review of permits, and notification and permissions of the Air Quality Department and local fire agency.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

Monitoring Program: The Air Quality Department tracks the number of burn permits issued, the number of illegal burn complaints, the number of illegal open burning notices of violation and enforcement actions; amount of penalties assessed; and compliance with the 24-hour PM_{10} standard. The Department will continue to track this information.

Measure Title: MAG Measure 46. Modeling cumulative impacts

<u>Measure Description</u>: Maricopa County will work with the Arizona Department of Environmental Quality to develop and implement a cumulative air quality modeling policy and guidance to prevent exceedances of the air quality standards caused by the clustering of numerous small to moderate sized sources.

Responsible Agency and Authority for Implementation: The Maricopa County Board of Supervisors is authorized by A.R.S. § 49-479 to adopt rules for air pollution control and by A.R.S. § 49-480 to establish, administer and enforce a program for air quality permits. The Board adopted rules establishing an air quality permit program and pursuant to A.R.S. § 49-473, designated the Air Quality Department to issue permits and administer and enforce the permit program. By operation of A.R.S. § 49-471, the executive head of the department designated under A.R.S. § 49-473 serves as the Air Pollution Control Officer. The Air Pollution Control Officer is specifically authorized to take the enforcement actions set forth in A.R.S. §§ 49-502, 49-511, 49-512 and 49-513.

Implementation Schedule:

December 2007

Develop cumulative air quality modeling policy and guidance

January 2008

Effective date of cumulative air quality modeling policy

<u>Level of Personnel and Funding Allocated for Implementation:</u> Cumulative air quality modeling will be accommodated as part of the air quality permit application process and handled by the Maricopa County Air Quality Department's existing Air Quality Permit Engineering Division.

Air quality permit requirements are administered through a permit program, which includes: review of permits, inspection of facilities, source testing of equipment, and review of records and activities.

The Air Quality Department's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and filing a class 1 misdemeanor citation.

<u>Monitoring Program:</u> The Air Quality Department tracks the number of permits and inspections of permitted sources; the number of enforcement actions; amount of penalties assessed; and compliance with the 24-hour PM_{10} standard. The Department will continue to track this information.

MEASURES WHICH ARE NOT FEASIBLE FOR IMPLEMENTATION

MAG Measure 17. Create a dedicated funding source for the Maricopa County Air Program. Senate Bill 1552 did not create a dedicated funding source for the County Air Program to support increased enforcement of Rule 310.01, and other air programs.

MAG Measure 26. Implement a leaf blower outreach program.

Senate Bill 1552 directed the Arizona Department of Environmental Quality, not Maricopa County, to establish a leaf blower training program and produce printed materials to educate and inform the user. Maricopa will include leaf blower outreach materials with Maricopa County's outreach materials, if requested to do so by ADEQ.

MAG Measure 30. Retrofit onroad diesel engines with particulate filters.

No funding was appropriated by the Arizona Legislature to establish a program with financial incentives to encourage voluntary retrofit for onroad diesel vehicles with particulate filters and oxidation catalysts. Maricopa County's existing Voluntary Vehicle Repair and Retrofit Program (A.R.S. § 49-474.03) limits participation to vehicles at least twelve years old and that fail an emissions test. In addition, repair or retrofit costs are limited to half of the costs up to \$1,000 for diesel vehicles. The average cost to retrofit onroad diesel engines exceeds the \$1,000 available under the existing program. Sierra Research estimated retrofit costs of diesel particulate filters at \$11,875 per vehicle and the cost of diesel oxidation catalysts at \$2,375 per vehicle. Further, Maricopa County does not have statutory authority to assess fees to onroad mobile sources, therefore, limiting its ability to generate funding for voluntary retrofit for onroad diesel vehicles.

MAG Measure 34. Prohibit new dirt roads including those associated with lot splits

Maricopa County does not have statutory authority to prohibit dirt roads in associated with lot splits in the PM₁₀ nonattainment area.

MAG Measure 50. Support Maricopa County in receiving statutory authority to prohibit new dirt roads including those associated with lot splits.

Maricopa County did not received statutory authority in Senate Bill 1552 to prohibit new dirt roads associated with lot splits. This continues to be a priority for Maricopa County and we will continue to pursue statutory authority.

MAG Measure 53. The Arizona State Legislature provide funding to this region for paving dirt roads and shoulders and provide a funding source to local governments for the enforcement of non-permitted sources. Senate Bill 1552 did not provide for funding for paving dirt roads and shoulders nor did they provide a funding source to local governments for the enforcement of nonpermitted sources, such as unpaved parking, unpaved vehicle staging areas, unpaved roads, unpaved shoulders, vacant lots and open areas or to Maricopa County for additional inspectors for the enforcement of Maricopa County Rule 310.

MAG Measure 54: Required to install two or more continuous PM_{10} monitors at larger construction and mineral production facilities in excess of 50 acres

An ambient monitor installed at a site's property line records the dust released into the air by site activities that reach the monitor. By its nature the ambient monitor will only trigger a reaction when elevated levels of PM₁₀ are recorded at the monitor. EPA has stated that RACM and BACM measures must be proactive to prevent the dust release not reactive. Furthermore, Senate Bill 1552 and Maricopa County Rules 310 and 316 will require onsite monitoring of dust control measures by dust control coordinators. These coordinators are required to be onsite when construction activities are occurring and to inspect all areas of the site periodically to ensure that dust control or stabilization measures are in place and effective. Ambient monitoring at the property line is not as comprehensive as the site-wide monitoring and inspections required of the dust control coordinators to prevent the elevated levels of dust from reaching the property line. Therefore, Maricopa County will not implement a

requirement for ambient monitors because the monitors provide a more limited, redundant monitoring system that targets the same emissions that the dust control coordinator requirement and are reactive in nature.

	ARIZONA DEPARTMENT OF TRANSPORTATION	

RESOLUTION TO IMPLEMENT MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM-10 FOR THE MARICOPA COUNTY NONATTAINMENT AREA

WHEREAS, the Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona, as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Area for PM-10 particulate matter according to the Clean Air Act; and

WHEREAS, the Five Percent Plan for PM-10 is required by the Clean Air Act since the Maricopa County nonattainment area failed to attain the PM-10 standard by December 31,2006; and

WHEREAS, the plan is required to reduce PM-10 emissions by five percent per year until the standard is met; and

WHEREAS, Arizona Revised Statutes 49-406 G. requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measure as provided in statute, ordinance, or rule; a program for enforcement of the measures; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE BE IT RESOLVED BY THE STATE TRANSPORTATION BOARD as follows:

SECTION 1. That the Arizona Department of Transportation agrees to proceed with a good faith effort to implement the measures identified in Exhibit A which is part of this resolution.

SECTION 2. That the Arizona Department of Transportation commits to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, the Arizona Department of Transportation agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

PASSED AND ADOPTED by the State Transportation Board of Arizona this 21st day of August 2007.

Arizona Transportation Board

ATTEST

VICTOR M. MENDEZ, Director

Arizona Department of Transportation

ATTACHMENT A

ADOT MEASURES FOR THE MAG 2007 FIVE PERCENT PM-10 PLAN

MAG REGIONAL COUNCIL SUGGESTED NEW CONTROL MEASURES

MAG #1 Public Education and Outreach with Assistance from Local Governments
 MAG #29 Sweep State Highways with PM10 Certified Street Sweepers
 Enhancement of Existing Measure 97-DC-5 Frequent Routine Sweeping

 MAG #35 Pave or Stabilize Unpaved Shoulders on State Highways
 Enhancement of Existing Measure 97-DC-4 Curbing, Paving, or Stabilizing Shoulders on Paved Roads (Including Painting Stripe on Outside of Travel Lane)

The following potential measures were not formally recommended by MAG Regional Council but are feasible for implementation by ADOT.

ADDITIONAL ADOT SUGGESTED NEW CONTROL MEASURES

07-DC-1 Repave or Overlay Paved Roads with Rubberized Asphalt
07-TC-1 Coordinate Public Transit Services with Pinal County

DC – Dust Control

TC - Traffic Congestion

MAG MEASURE #1: PUBLIC EDUCATION AND OUTREACH WITH ASSISTANCE FROM LOCAL GOVERNMENTS

<u>Measure Description:</u> This measure would aide Maricopa County Air Quality Department in increasing the public awareness of sources and health effects of PM-10 and discourages citizens from participating in activities that generate airborne dust. (i.e., distribute materials from "Bring Back Blue" campaign.) The outreach material could focus on the "Dirty Dozen"—twelve actions that individuals can take to reduce particulate matter pollution:

- 1. Drive less, particularly on pollution advisory days. Reduce the number of trips you take in your car
- 2. Don't drive in the dirt.
- 3. Drive slowly on unpaved roads.
- 4. Don't use leaf blowers and other equipment that raise a lot of dust.
- 5. Avoid using gas-powered lawn and garden equipment.
- 6. Maintain your landscape. Cover loose dirt with vegetation or gravel.
- 7. Reduce fireplace and woodstove use, and don't use your wood-burning fireplace or stove on no-burn days.
- 8. Consider using gas instead of wood. If you use a wood-burning stove or fireplace insert, make sure it meets EPA design specifications and burn only dry, seasoned wood.
- 9. Conserve electricity.
- 10. Don't burn leaves, trash or other material.
- 11. Report serious offenders to the appropriate air quality agency.
- 12. Support laws, rules, and efforts to make our air healthier.

A variety of techniques could be used to conduct the outreach program including the following; Development and maintenance of Website links to such as BringBackBlue.org, On-line activities for kids such as those contained on the Website of the ADEQ, Additional advertising with use of leaflets and ongoing series of feature articles in ADOT newsletter, message boards or MVD/ADOT lobbies.

Responsible Agency and Authority for Implementation: The Arizona Department of Environmental Quality, which is empowered by A.R.S. 49-104 to take necessary steps to protect the environment, would take the lead statewide, with local agencies such as the Maricopa County Air Quality Department coordinating the program in their jurisdictions. ADOT coordination in districts and departments as appropriate and encourage the involvement of the transportation departments of local agencies located in the nonattainment areas.

<u>Implementation Schedule:</u> The additional support for education of PM10 can be kicked off on or before January 1, 2008.

Level of Personnel and Funding Allocated for Implementation:

ADOT has current staff and Division Communication and Community Partnerships that coordinated public involvement and develops newsletters

Enforcement Program: AR.S. Section 49-406 grants Maricopa County and ADEQ the authority to enforce measures identified in the non-attainment area plans.

<u>Monitoring Program</u>: ADOT will submit progress reports or any additional records of implementation to Maricopa County Air Quality Division or ADEQ, upon request.

GOT DUST? Help us keep it down!

The Arizona Department of Transportation is asking for your help to keep down dust pollution in your neighborhood.

Airborne Dust = Particulate Matter Pollution.

Particulate Matter (PM) is simply airborne dust. It consists of complex microscopic solid particles or liquid droplets that become airborne from many types of sources. PM is harmful to human health, contributes to the Valley's "brown cloud" and is a regulated pollutant that must be minimized.

Particulate Matter is Hazardous

Airborne dust affects human health in significant ways. Breathing PM can cause:

- Reduced lung function
- Aggravated heart and respiratory disease
- Irritations to the nose, throat and ear canal
- Chronic bronchitis

- Difficulty breathing
- Heart attacks
- Weakened immune system
- Premature death (by 1-8 years)

In an effort to minimize airborne PM in your area, the Arizona Department of Transportation (ADOT) is asking for your cooperation.

Please do not use nearby ADOT-owned vacant land for the operation of ATVs, motorcycles or other off-road vehicles. These vehicles kick up dust and disturb the topsoil crust long after the ATVs have left. In fact, even bicycles and foot traffic can disturb the soil and cause harmful dust.

Do not use the ADOT property for dumping of garbage or other refuse, as this also disturbs the soil and creates an unsightly, unsafe and unhealthy environment in our community.

Obey all posted notices and help keep the perimeter fencing of the ADOT property in tact. The fencing is in place to prevent access to the property and disturbance of the soil. Please call ADOT at 602.712.7587 to report damage to fencing.

ADOT is cooperating with local police, so please report any trespassers you may see on the property. You may call ADOT at 602.712.7587 or your local police. ADOT will prosecute trespassers in accordance with state law.

ADOT is working to keep down the dust in your neighborhood. With your help, we can make a difference.

¿Tiene polvo? ¡Ayúdenos a mantenerlo a niveles bajos!

El Departamento de Transporte de Arizona esta pidiendo su ayuda para mantener la contaminación de polvo a niveles bajos en su área.

Polvo Suelto = Contaminación de Partículas en el Aire

Partículas en el Aire (PA) es simplemente polvo suelto. Consiste de partículas sólidas o liquidas, microscópicas y complejas que se quedan suspendidas en el aire por varias razones. PA daña la salud, contribuye a la "nube cafe" del Valle y es un agente contaminante que puede ser reducido.

Partículas en el Aire son Peligrosas

Polvo suelto afecta a la salud de manera importante. Respirar PA puede causar:

- Reducción de funciones pulmonares
- Irritación de nariz, garganta y oído
- Dificultad para respirar
- Debilitación del sistema inmunológico
- Agravamiento de enfermedades cardiacas y respiratorias
- Bronquitis crónica
- Ataque al corazón
- Muerte prematura (entre 1-8 años)

En un esfuerzo para reducir PA, el Departamento de Transporte de Arizona (ADOT) le pide su cooperación.

Por favor no use motocicletas o vehículos de uso de arena o tierra en terrenos baldíos de ADOT. Estos vehículos levantan polvo y causan daño a la tierra, aun mucho después de que los vehículos ya no están en uso. De hecho, bicicletas y peatones causan daño a la tierra ya que levantan el polvo en el aire.

No use propiedad de ADOT para desechar basura u otros residuos, ya que estos también causan daño a la tierra, y crean un ambiente deplorable, inseguro, e insaludable para la comunidad.

Obedezca todos los avisos puestos y ayude a mantener la cerca de alambre de ADOT intacta. La cerca de alambre esta puesta para prevenir el acceso y para no causar daño a dicha tierra. Por favor llame a ADOT para reportar cualquier daño a la cerca de alambre al 602.712.7587.

ADOT y la policía local, le pide su cooperación para que nos informe si usted ve a persona(s) cruzando la cerca de alambre. Usted puede comunicarse a la policía local o ADOT al 602. 712.7587. ADOT acusará a esta persona(s) de acuerdo con las leyes estatales.

ADOT esta trabajando para reducir el polvo en en su área. Con su ayuda, podemos hacer la diferencia.

MAG MEASURE #29: SWEEP STATE HIGHWAYS WITH PM10 CERTIFIED STREET SWEEPERS

<u>Measure Description:</u> This measure requires the use of PM-10 Certified Street Sweepers on State Highways that are located wholly or partially within PM-10 nonattainment areas in order to reduce particulate emission. Street Sweepers must meet the standards for PM10 certification established by the California Air Resources Board (CARB) in response to CARB Rule 1186.

Responsible Agency and Authority for Implementation: The Arizona Department of Environmental Quality is empowered by A.R.S. 49-104 to take necessary steps to protect the environment. Pursuant to A.R.S. 28-104, ADOT has the responsibility for maintenance of facilities on the State Highway System.

<u>Implementation Schedule:</u> The measure would be adopted as an internal ADOT policy by December 31, 2007, the implementation for contract sweeping will be contingent upon new contract renewal date (currently 1/19/08) and procurement process time required to award new contracts.

Level of Personnel and Funding Allocated for Implementation: The Phoenix Maintenance District is responsible for maintaining and sweeping streets within the PM10 Nonattainment Area. Routine sweeping is contracted to outside company and contract language will be modified requiring the use of PM10 sweepers. Current ADOT contract sweeping has 80% PM10 of sweepers that are PM10 certified, when renewed in January 08; the contract will require the use of only PM10 Street Sweepers. The current contract calls for the sweeping of 69,220 curb-lane miles annually. The current cost for contract sweeping is as follows:

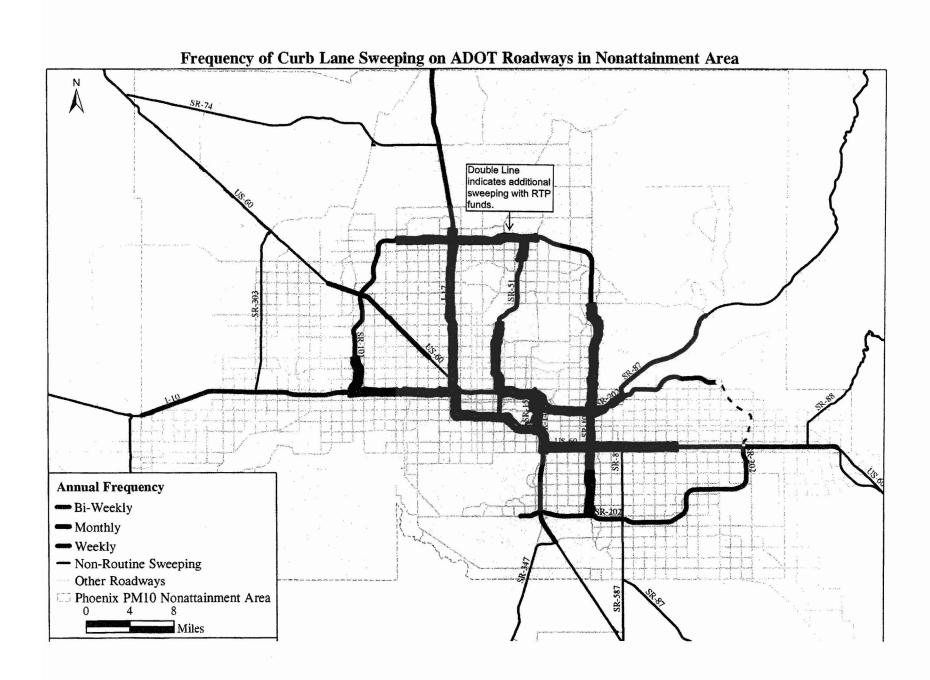
- \$16.85 per curb mile for standard sweeping
- \$24.50 per curb mile for sweeping with the addition of a safety truck

Additional costs may be allowed under new contract to accommodate the requirement of the use of PM10 Efficient Sweepers. Supplemental and non-routine sweeping is conducted by the Phoenix Maintenance District, currently all maintenance orgs have access to 4 PM10 efficient street sweeper, starting January 1, 2008 only use of PM10 efficient street sweepers will be used in the nonattainment area. Funding for FY08 to implement this control measure is estimated at \$300,000 to cover the cost of operating the PM10 efficient street sweepers.

Enforcement Program: AR.S. Section 49-406 grants Maricopa County and ADEQ the authority to enforce measures identified in the non-attainment area plans.

Monitoring Program: A reevaluation of the contract language requiring the use of PM10 street sweepers will be conducted every time contract is renewed by ADOT. The location and sweeping frequency for contract sweeping continues to be evaluated under existing control measure "97-DC-5 Frequent, Routine Sweeping or Cleaning of Paved Roads." The location and sweeping frequency of off-contract ADOT supplemental sweeping is evaluated under existing control measure "04-DC-1 Reducing Reentrained Dust Emissions from Targeted Paved Roads." ADOT will submit progress reports or any additional records of implementation to MCAQD or ADEQ, upon request.

Frequency of Curb Lane Sweeping on ADOT Roadways in Nonattainment Area **Annual Frequency** Bi-Weekly Monthly • Weekly - Non-Routine Sweeping Other Roadways ☐ Phoenix PM10 Nonattainment Area Miles



MAG MEASURE #35: PAVE OR STABILIZE UNPAVED SHOULDERS ON STATE HIGHWAYS

<u>Measure Description</u>: This measure would require paving or stabilizing dirt shoulders on paved public roads that carry a high level of traffic (e.g., more than 2,000 vehicles or 50 heavy duty trucks per average weekday).

This measure would be an enhancement of existing Measure 97-DC-4 Curbing, Paving, or Stabilizing Shoulders on Paved Roads (Including Painting Stripe on Outside of Travel Lane). That measure in turn was an enhancement of an ADOT commitment made in 1991 requiring curbing, paving, or stabilizing (chemically or with vegetation) shoulders of paved roads. The 1997 measure and the 1991 commitment did not specify an emphasis upon roads that carry a high level of traffic.

Responsible Agency and Authority for Implementation: The Arizona Department of Transportation will be the agency responsible for implementation of this measure on the State Highway System. Legal authority for this action is provided under A.R.S. 28-332 B. 3., which states that the department shall design and construct transportation facilities in accordance with a priority plan and maintain and operate state highways, state owned airports and state public transportation systems.

The ADOT Maintenance and Facilities Best Management Practices Manual, March 2007, is one element of the Statewide Stormwater Management Plan (SSWMP). Its practices designed to prevent soil erosion serve to reduce airborne particulates in addition to limiting stormwater pollution. The Manual's ADOT Maintenance Performance Control System (PeCoS) Program 130 – Shoulders also requires stabilizing exposed soils with native seeding, as appropriate.

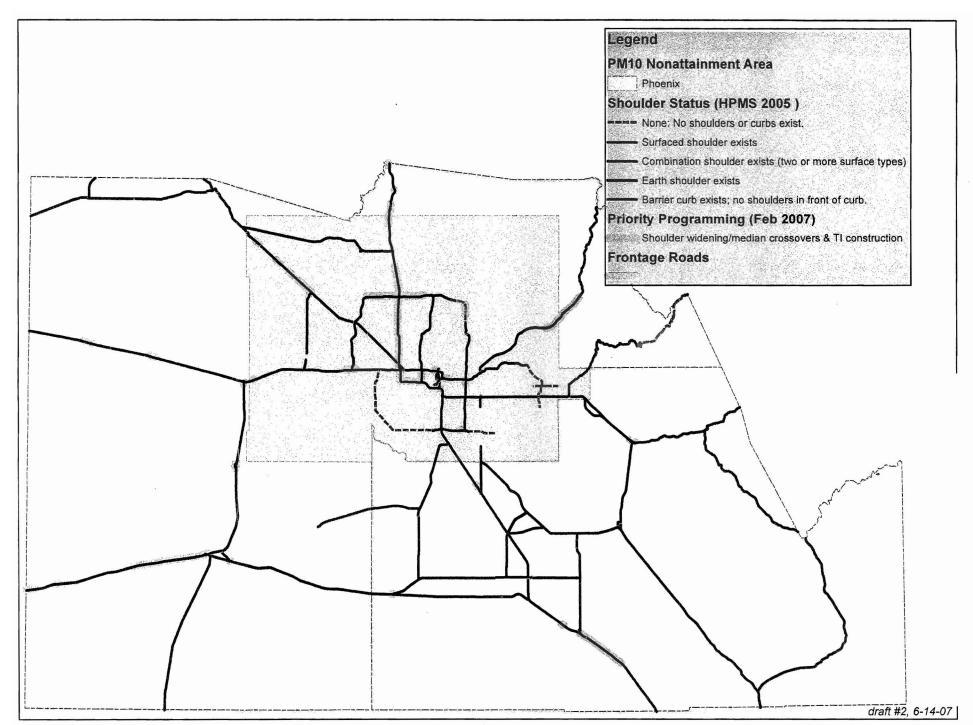
<u>Implementation Schedule:</u> The measure would be implemented by January 1st, 2008. Specific shoulder paving or stabilization projects have been included in the Five Year Construction Program as part of new construction or reconstruction. Certain quantified criteria were added to the Priority Programming Process in 2004 including the criterion "conforms to air quality requirements" within the Environmental Goal and the objective "To address environmental needs, air quality requirements, and environmental justice." The criterion would be replaced by a more specific statement of the emission reduction contribution of the measure. The measure would be in effect until the monitoring indicates that all State Highway System shoulders in Maricopa County are paved or otherwise stabilized.

<u>Level of Personnel and Funding Allocated for Implementation:</u> The measure would be funded and staffed in the same manner as any past or current shoulder paving or stabilization project has been funded. The ranking of such projects might be affected by the establishment of an emission reduction criterion in the Priority Programming Process.

Enforcement Program: ADOT, through the Air Quality Policy Branch, will review the PeCoS reporting on shoulder paving and stabilization projects within the nonattainment area. Performance reports will be extracted from PeCoS on future construction and reconstruction

activities, including shoulder paving and stabilization activities adopted as a part of the stormwater SSWMP. ADOT will also explore opportunities to report results more effectively through the integration of PeCOs and GIS record systems and consider any new research that would recommend different soil stabilization materials or different stabilization reapplication schedules.

Monitoring Program: ADOT will monitor the use of the air quality criteria in the Priority Programming Process, the shoulder paving and stabilization projects accomplished annually (monitored through PeCOs), the year-to-year change in the status of shoulders on the State Highway System (available through the Highway Performance Monitoring System (HPMS) database and mapping). The information will be provided to Maricopa County Air Quality Division for the required annual report for the Environmental Protection Agency.



Status of Shoulders on State Highway System in Maricopa and Pinal Counties

ADOT MEASURE 07-DC-1: REPAVE OR OVERLAY PAVED ROADS WITH RUBBERIZED ASPHALT

Measure Description: The Arizona Department of Transportation would commit to repaving or overlaying paved roads with rubberized asphalt that reduces PM-l0 emissions by reducing vehicle tire wear. The PM10 emissions rates from tire wear are 30 to 50 percent lower than on Portland Cement Concrete. ADOT's program (Quiet Pavement) to overlay freeways with rubberized asphalt for the purpose of noise mitigation was announced in December 2002 and began in September 2003. A single program with two purposes would continue, namely applying a rubberized asphalt overlay for the State Highway System to reduce PM-l0 emissions and to mitigate noise. Measure 07-DC-31 would be a commitment to continue the program specifically for the purpose of PM-l0 emissions reduction. Rubberized asphalt overlay is used both in repaving and in the initial construction of new freeway sections.

Emission reduction in tons per unit: The units are lane miles. The emission reductions attributable to vehicles are converted to emission reductions per lane mile by taking the average daily traffic (ADT) into account. The emission reduction estimates per lane mile per year at two different ADT values appear below:

ADT(vehicles/day)	Tons /Lane Mile/Year
17,000	0.034
2,500	0.005

<u>Responsible Agency and Authority for Implementation:</u> ADOT has the responsibility to maintain and operate state highways pursuant to A.R.S. 28-332. ADOT has the responsibility to participate in nonattainment area planning and to make and implement any emission limitation or other control measure pursuant to A.R.S. 49-406.

<u>Implementation Schedule:</u> The Quiet Pavement program-Phase X includes paving scheduled for March 2008 on 2.43 miles of I-10 and on 2.78 miles of SR 143. Specific scheduling has not yet occurred for subsequent phases of the Quiet Pavement program but noise mitigation funds are programmed into the Regional Transportation Plan (RTP) for the years following the completion of Phase X (see below).

Level of Personnel and Funding Allocated for Implementation: The RTP includes commitments to fund mitigation projects which include rubberized asphalt for the purposes of noise mitigation; the PM-10 emission reduction benefit would be realized concurrently with the noise mitigation benefit, with no additional funding. Funding of Phase X comprises \$14.5M in RTP Noise Mitigation funds. \$20.4M in additional RTP Noise Mitigation funds appear in the 2007 RTP draft freeway/highway life cycle program FY 2008-FY2026.

Enforcement Program: The measure would be carried out by ADOT and is already programmed into ADOT's highway construction planning and pavement preservation projects. An enforcement program would, therefore, not be applicable to the measure.

Monitoring Program: The ADOT Intermodal Transportation Division tracks project completion data for pavement preservation projects, key project data would include the locations, lane miles, and completion dates. ADOT could apply the estimated emission reduction factors to the pavement preservation project lane miles completed each year and submit progress reports or any additional records of implementation to Maricopa County Air Quality Division or ADEQ, upon request.

ADOT MEASURE 07-TC-1: COORDINATE PUBLIC TRANSIT SERVICES WITH PINAL COUNTY

<u>Measure Description:</u> This measure would involve coordination between Pinal County and public transit agencies in Maricopa County to provide transit service and reduce the number of vehicle trips between the two counties.

ADOT Public Transit Division distributes Federal Transit Administration 5311 funds to fund rural public transit systems to service communities with under 50,000 populations. Recently the City of Maricopa received funding for a regional transit service will provide public bus transportation between the City of Maricopa in Pinal County and the City of Phoenix within Maricopa County. The intent of the service is to provide commuters a public transportation service as well as transit dependent population a means to travel outside of the City of Maricopa for services.

ADOT is also conducting a Rural Transit Needs Study to Collect and analyze relevant data, including population, employment, income levels, automobile ownership and travel patterns; Identify national trends in addressing rural transit needs; Obtain key stakeholder input on current gaps in transit service; Develop projections for future transit demand; Identify and quantify potential solutions; and Develop a strategic transit plan for future improvements.

Responsible Agency and Authority for Implementation: Pursuant to A.R.S. 28-104, ADOT has the responsibility for maintenance of facilities on the State Highway System, A.R.S. 28-367 also gives ADOT the authority to receive, allocate, control and disperse all monies designated for state public transit programs by federal or state law or rule.

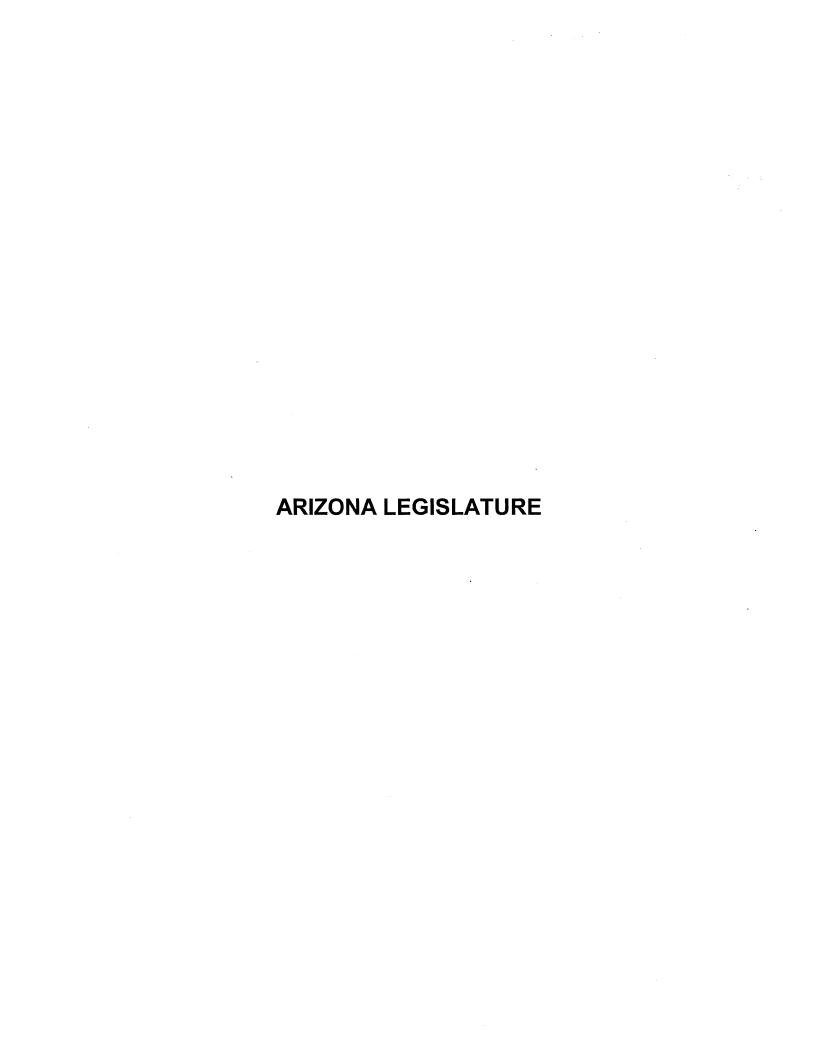
<u>Implementation Schedule:</u> Implementation schedule will depend on the level and degree of services offered, the City of Maricopa, service should be in place by end of 2008 and ADOT Rural Transit Needs Study will be completed with future recommendations by the end of 2007.

Level of Personnel and Funding Allocated for Implementation:

In FY 2007, ADOT Public Transit Division received over \$8.3 million in Federal Transit Administration 5311 funds. The City of Maricopa will receive in October 2007 (FY 2008) \$437,000 of Federal Transit Administration funding to support a regional transit service. ADOT Public Transportation Division allocated \$250,000 for the Rural Transit Needs Study.

Enforcement Program: AR.S. Section 49-406 grants Maricopa County and Arizona Department of Environmental Quality (ADEQ) the authority to enforce measures identified in the non-attainment area plans.

<u>Monitoring Program:</u> The ADOT Public Transit Division tracks project completion data and can provide additional progress reports or other documentation of implementing this measure, to Maricopa County Air Quality Division or ADEQ upon request.



State of Arizona Senate Forty-eighth Legislature First Regular Session 2007

SENATE BILL 1552

AN ACT

AMENDING SECTION 9-500.04, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.27; AMENDING SECTIONS 11-871 AND 11-872, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-877; AMENDING SECTIONS 28-1098 AND 28-6705, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2083. ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 145, SECTION 1; AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 145, SECTION 2; AMENDING TITLE 41, CHAPTER 15, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2083.01; AMENDING SECTION 41-2121, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 15, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 41–2124.01; AMENDING SECTION 41-2124.01, ARIZONA REVISED STATUTES, AS ADDED BY SECTION 12 OF THIS ACT; AMENDING SECTION 49-457, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-457.01, 49-457.02, 49-457.03 AND 49-457.04; AMENDING SECTION 49-474.01, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES. BY ADDING SECTIONS 49-474.05, 49-474.06 AND 49-474.07; AMENDING SECTION 49-501, ARIZONA REVISED STATUTES; AMENDING SECTION 49-542, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 171, SECTION 5; RELATING TO AIR QUALITY: PROVIDING FOR CONDITIONAL ENACTMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

- i -

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-500.04, Arizona Revised Statutes, is amended to read:

9-500.04. Air quality control; definitions

- A. The governing body of a city or town in area A or AREA B as defined in section 49-541 shall:
- 1. If the city has a population exceeding fifty thousand persons according to the 1995 special census, adjust the work hours of at least eighty-five per cent of municipal employees each year beginning October 1 and ending April 1 in order to reduce the level of carbon monoxide, OZONE AND PARTICULATE MATTER concentrations caused by vehicular travel.
- 2. In area A, in consultation with the designated metropolitan planning organization, synchronize traffic control signals on all existing and new roadways, within and across jurisdictional boundaries, which THAT have a traffic flow AVERAGE DAILY TRIPS exceeding fifteen thousand motor vehicles per day.
- 3. In area A, beginning on January 1, 2000 2008, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting the roads, alleys and shoulders, a schedule for implementation, funding options and reporting requirements. PRIORITY SHALL BE GIVEN TO THE FOLLOWING:
 - (a) UNPAVED ROADS WITH MORE THAN ONE HUNDRED AVERAGE DAILY TRIPS.
- (b) UNPAVED SHOULDERS ON ARTERIAL ROADS AND OTHER ROAD SEGMENTS WHERE VEHICLE USE ON UNPAVED SHOULDERS IS EVIDENT OR ANTICIPATED DUE TO PROJECTED TRAFFIC VOLUME.
- 4. In area A, acquire or utilize vacuum systems or other dust removal technology to reduce the particulates attributable to conventional crack sealing operations as existing equipment is retired.
 - 5. IN AREA A, IN ORDER TO REDUCE PARTICULATE MATTER IN AMBIENT AIR:
- (a) BEGINNING MARCH 31, 2008, ON ANY HIGH POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PROHIBIT EMPLOYEES OR CONTRACTORS OF THAT CITY OR TOWN FROM OPERATING LEAF BLOWERS EXCEPT WHILE IN VACUUM MODE AND PROHIBIT THOSE EMPLOYEES OR CONTRACTORS FROM BLOWING LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS AT ANY TIME.
- (b) NO LATER THAN MARCH 31, 2008, ADOPT, IMPLEMENT AND ENFORCE AN ORDINANCE THAT BANS THE BLOWING OF LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS AT ANY TIME BY ANY PERSON.
- 6. IN AREA A, NO LATER THAN MARCH 31, 2008, ADOPT OR AMEND CODES OR ORDINANCES AND, NO LATER THAN OCTOBER 1, 2008, COMMENCE ENFORCEMENT OF THOSE CODES OR ORDINANCES AS NECESSARY TO REQUIRE THAT PARKING, MANEUVERING, INGRESS AND EGRESS AREAS AT DEVELOPMENTS OTHER THAN RESIDENTIAL BUILDINGS WITH FOUR OR FEWER UNITS ARE MAINTAINED WITH ONE OR MORE OF THE FOLLOWING DUSTPROOF PAVING METHODS:

- 1 -

- (a) ASPHALTIC CONCRETE.
- (b) CEMENT CONCRETE.
- (c) PENETRATION TREATMENT OF BITUMINOUS MATERIAL AND SEAL COAT OF BITUMINOUS BINDER AND A MINERAL AGGREGATE.
 - (d) A STABILIZATION METHOD APPROVED BY THE CITY OR TOWN.
- 7. IN AREA A, NO LATER THAN MARCH 31, 2008. ADOPT OR AMEND CODES OR ORDINANCES AND, NO LATER THAN OCTOBER 1, 2009, COMMENCE ENFORCEMENT OF THOSE CODES OR ORDINANCES AS NECESSARY TO REQUIRE THAT PARKING, MANEUVERING, INGRESS AND EGRESS AREAS THAT ARE THREE THOUSAND SQUARE FEET OR MORE IN SIZE AT RESIDENTIAL BUILDINGS WITH FOUR OR FEWER UNITS ARE MAINTAINED WITH A PAVING OR STABILIZATION METHOD AUTHORIZED BY THE CITY OR TOWN BY CODE, ORDINANCE OR PERMIT.
- 8. IN AREA A, NO LATER THAN MARCH 31, 2008, ADOPT OR AMEND CODES OR ORDINANCES AS NECESSARY TO RESTRICT VEHICLE PARKING AND USE ON UNPAVED OR UNSTABILIZED VACANT LOTS.
- 9. IN AREA A, NO LATER THAN MARCH 31, 2008, REQUIRE THAT NEW OR RENEWED CONTRACTS FOR STREET SWEEPING ON CITY STREETS MUST BE CONDUCTED WITH STREET SWEEPERS THAT MEET THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT RULE 1186 STREET SWEEPER CERTIFICATION SPECIFICATIONS FOR PICK UP EFFICIENCY AND PM-10 EMISSIONS IN EFFECT ON JANUARY 1, 2007.
- $5.\,$ 10. In area B, synchronize traffic control signals on all roadways which THAT have a traffic flow AVERAGE DAILY TRIPS exceeding fifteen thousand motor vehicles per day.
- B. The governing body of a city or town in area B as defined in section 49-541 may make and enforce ordinances to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the city or town and employees whose place of employment is within the city or town.
- C. Except as provided in subsection F of this section, the governing body of a city or town in area A as defined in section 49-541 in a county with a population of more than one million two hundred thousand persons according to the most recent United States decennial census shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in city or town owned vehicles. The plan shall include a timetable for increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion.
- D. The timetable shall reflect the following schedule and percentage of vehicles which THAT operate on alternative fuels and clean burning fuels:
 - 1. At least eighteen per cent of the total fleet by December 31, 1995.
- 2. At least twenty-five per cent of the total fleet by December 31, 1996.
 - 3. At least fifty per cent of the total fleet by December 31, 1998.
- 4. At least seventy-five per cent of the total fleet by December 31, 2000 and each year thereafter.

. . .

- E. The requirements of subsections C and D of this section may be waived on receipt of evidence acceptable to the city or town council that the city or town is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than ten per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. Applications for waivers shall be filed with the department of environmental quality pursuant to section 49-412. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate MATTER emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to section 49-555.
- F. The plan prescribed by subsection C of this section shall include provisions for the use of alternative fuels and clean burning fuels in the bus fleet operated by that city or town or a regional public transportation authority, except that all newly purchased buses shall use alternative fuel or clean burning fuel. The bus fleet shall comply with the timetable prescribed by subsection D of this section, except that the requirements of subsections C and D of this section may be waived on receipt of certification supported by evidence acceptable to the department of environmental quality that the city or town is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than twenty per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.
- G. If the requirements of subsections C, D and F of this section are met by the use of clean burning fuel, vehicle equivalents under those requirements shall be calculated as follows:
- 1. One vehicle equivalent for every four hundred fifty gallons of neat biodiesel or two thousand two hundred fifty gallons of a diesel fuel substitute prescribed in section 1-215, paragraph 7, subdivision (b).
- 2. One vehicle equivalent for every five hundred thirty gallons of the fuel prescribed in section 1-215, paragraph 7, subdivision (d).
- H. SUBSECTION A, PARAGRAPHS 5 THROUGH 8 OF THIS SECTION DO NOT APPLY TO ANY SITE THAT HAS A PERMIT ISSUED BY A CONTROL OFFICER AS DEFINED IN SECTION 49-471 FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS.

- 3 -

#. I. For the purposes of this section, "alternative fuel" and "clean burning fuel" have the same meanings prescribed in section 1-215.

Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.27, to read:

9-500.27. <u>Off-road vehicle ordinance: applicability: violation:</u> <u>classification</u>

- A. NO LATER THAN MARCH 31, 2008, IN AREA A, AS DEFINED IN SECTION 49-541, A CITY OR TOWN SHALL ADOPT, IMPLEMENT AND ENFORCE AN ORDINANCE THAT PROHIBITS THE OPERATION OF ANY VEHICLE, INCLUDING AN OFF-HIGHWAY VEHICLE, AN ALL-TERRAIN VEHICLE OR AN OFF-ROAD RECREATIONAL MOTOR VEHICLE, ON AN UNPAVED SURFACE THAT IS NOT A PUBLIC OR PRIVATE ROAD, STREET OR LAWFUL EASEMENT AND THAT IS CLOSED BY THE LANDOWNER BY RULE OR REGULATION OF A FEDERAL AGENCY, THIS STATE, A COUNTY OR A MUNICIPALITY OR BY PROPER POSTING IF THE LAND IS PRIVATE LAND.
- B. THIS SECTION DOES NOT APPLY TO THE OPERATION OF VEHICLES USED IN THE NORMAL COURSE OF BUSINESS OR THE NORMAL COURSE OF GOVERNMENT OPERATIONS.
- C. THIS SECTION DOES NOT PROHIBIT OR PREEMPT THE ENFORCEMENT OF ANY SIMILAR ORDINANCE THAT IS ADOPTED BY A CITY OR TOWN IN AREA A, AS DEFINED IN SECTION 49-541, BEFORE MARCH 31, 2008 FOR PURPOSES OF DUST ABATEMENT.
- D. A PERSON WHO VIOLATES AN ORDINANCE ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR.
- E. IN ADDITION TO OR IN LIEU OF A FINE PURSUANT TO THIS SECTION, A JUDGE MAY ORDER THE PERSON TO PERFORM AT LEAST EIGHT BUT NOT MORE THAN TWENTY-FOUR HOURS OF COMMUNITY RESTITUTION OR TO COMPLETE AN APPROVED SAFETY COURSE RELATED TO THE OFF-HIGHWAY OPERATION OF MOTOR VEHICLES, OR BOTH.
 - Sec. 3. Section 11-871, Arizona Revised Statutes, is amended to read: 11-871. Emissions control; no burn; exemptions; penalty
- A. A county that contains any part of area A, as defined in section 49-541, shall, by September 1, 1999, develop, implement and enforce in area A, as defined in section 49-541, an ordinance relating to residential wood burning restrictions, including a no burn restriction when monitoring or forecasting indicates BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PREDICTS the carbon monoxide standard is likely to be exceeded.
- B. ON OR BEFORE OCTOBER 31, 2007, A COUNTY THAT CONTAINS ANY PART OF AREA A, AS DEFINED IN SECTION 49-541, SHALL AMEND THE ORDINANCE PRESCRIBED BY SUBSECTION A OF THIS SECTION TO INCLUDE A NO BURN RESTRICTION FOR ANY HIGH POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR PARTICULATE MATTER.
- & C. The ordinance shall provide an exemption for the use of residential wood stoves, wood fireplaces or gas fired fireplaces that comply with any of the following:
- 1. Provides the sole or primary source of heat or fuel for cooking for a residence.

- 4 -

- 2. Meets performance standards for new residential wood heaters manufactured on or after July 1, 1990 or sold at retail on or after July 1, 1992 as prescribed by 40 Code of Federal Regulations part 60, subpart AAA.
 - 3. Burns gaseous fuels, including gas logs.
- 4. Meets rules adopted by the board of supervisors as prescribed in section 49-479 for burning wood in approved appliances.
- ${\mathfrak C}.$ D. The ordinance shall provide that a person who violates an ordinance adopted pursuant to this section is subject to:
 - 1. A warning for the first violation.
- 2. The imposition of a civil penalty of fifty dollars for the second violation.
- 3. The imposition of a civil penalty of one hundred dollars for $\overline{\mathfrak{a}}$ THE third or any subsequent violation.
- 4. THE IMPOSITION OF A CIVIL PENALTY OF TWO HUNDRED FIFTY DOLLARS FOR THE FOURTH OR ANY SUBSEQUENT VIOLATION.
- D. E. For violations of ordinances adopted pursuant to this section, the control officer shall use a uniform civil ticket and complaint substantially similar to a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the supreme court. The control officer may issue citations to persons in violation of ordinances adopted pursuant to this section.
 - Sec. 4. Section 11-872, Arizona Revised Statutes, is amended to read: 11-872. Control techniques; rules; schedule for adoption
- A. If the administrator of the United States environmental protection agency makes a finding relating to area A, as defined in section 49-541, pursuant to the clean air act amendments of 1990 (P.L. 101-549), section 172, the county shall adopt by rule the necessary emission limitations or other standards reflecting control techniques guidelines issued by the United States environmental protection agency pursuant to the clean air act amendments of 1990, section 183 in order to achieve emissions reductions sufficient to respond to the finding.
- B. The county shall begin to develop rules which THAT incorporate the provisions of the control techniques guidelines being developed by the United States environmental protection agency. The rule making process shall parallel as closely as possible the United States environmental protection agency process and incorporate adequate public notice and comment. The county shall make every practical effort to assure the rules are consistent with the concepts and provisions embodied in the United States environmental protection agency process. Within sixty days of AFTER the formal adoption of the United States environmental protection agency control techniques guidelines for an industry sector, the county shall adopt rules, emission limitations or other standards reflecting such guidelines. If the guidelines are required pursuant to subsection A of this section prior to formal adoption by the administrator of the guidelines, the county rules shall become effective within sixty days of AFTER the United States environmental

- 5 -

protection agency finding. The county shall determine which industry sector shall be subject to the requirements of this section.

- C. If the director of the department of environmental quality determines that emissions inventory data, monitoring information and modeling or projections indicate it is likely that reasonable further progress or attainment will not be achieved in order to comply with the clean air act amendments of 1990 OR ACHIEVE OR MAINTAIN NATIONAL AMBIENT AIR QUALITY STANDARDS OR OTHER AIR QUALITY STANDARDS APPLICABLE TO OZONE PRECURSORS, the county shall adopt rules necessary to achieve emissions reductions to achieve reasonable further progress or attainment. The rules shall be based on technically feasible controls to reduce the emissions of volatile organic compounds from industry sectors that the United States environmental protection agency is considering for control technique guidelines.
- D. All emissions reductions required pursuant to this section shall be achieved FOR PURPOSES OF THE ONE-HOUR OZONE STANDARD no later than June 1, 1996 AND FOR PURPOSES OF THE EIGHT-HOUR AVERAGED OZONE STANDARD NO LATER THAN DECEMBER 31, 2008.
- Sec. 5. Title 11, chapter 6, article 4, Arizona Revised Statutes, is amended by adding section 11-877, to read:
 - 11-877. Air quality control measures
- A. IN ORDER TO REDUCE PARTICULATE MATTER IN AMBIENT AIR, THE BOARD OF SUPERVISORS OF ANY COUNTY THAT CONTAINS ANY PORTION OF AREA A, AS DEFINED IN SECTION 49-541, SHALL DEVELOP, IMPLEMENT AND ENFORCE IN AREA A THE FOLLOWING AIR QUALITY CONTROL MEASURES:
- 1. BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, PROHIBIT EMPLOYEES OR CONTRACTORS OF THAT COUNTY FROM OPERATING LEAF BLOWERS ON ANY HIGH POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY EXCEPT WHILE IN VACUUM MODE AND PROHIBIT THOSE EMPLOYEES OR CONTRACTORS FROM BLOWING LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS AT ANY TIME.
- 2. NO LATER THAN MARCH 31, 2008, ADOPT, IMPLEMENT AND ENFORCE AN ORDINANCE THAT BANS THE BLOWING OF LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS AT ANY TIME BY ANY PERSON.
- 3. NO LATER THAN MARCH 31, 2008, ADOPT, IMPLEMENT AND ENFORCE AN ORDINANCE THAT PROHIBITS THE OPERATION OF LEAF BLOWERS EXCEPT ON SURFACES THAT HAVE BEEN STABILIZED WITH ASPHALTIC CONCRETE, CEMENT CONCRETE, HARDSCAPE, PENETRATION TREATMENT OF BITUMINOUS MATERIAL AND SEAL COAT OF BITUMINOUS BINDER AND A MINERAL AGGREGATE, DECOMPOSED GRANITE COVER, CRUSHED GRANITE COVER, AGGREGATE COVER, GRAVEL COVER, OR GRASS OR OTHER CONTINUOUS VEGETATIVE COVER, OR ANY COMBINATION OF THOSE STABILIZERS.
- B. THIS SECTION DOES NOT APPLY TO ANY SITE THAT HAS A PERMIT ISSUED BY A CONTROL OFFICER AS DEFINED IN SECTION 49-471 FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS.

- 6 -

Sec. 6. Section 28-1098, Arizona Revised Statutes, is amended to read: 28-1098. Vehicle loads; restrictions; civil penalties

- A. FOR THE PURPOSE OF HIGHWAY SAFETY OR AIR POLLUTION PREVENTION, a person shall not drive or move a vehicle on a highway unless the vehicle is constructed or loaded in a manner to prevent any of its load from dropping, sifting, leaking or otherwise escaping from the vehicle, except that either THE FOLLOWING ARE PERMITTED:
- 1. SUFFICIENT sand may be dropped for the purpose of securing traction.
- 2. Water or another substance may be sprinkled on a roadway in cleaning or maintaining the roadway.
- 3. MINOR PIECES OF AGRICULTURAL MATERIALS SUCH AS LEAVES AND STEMS FROM AGRICULTURAL LOADS.
- B. A person shall not operate a vehicle on a highway with a load unless the load and any covering on the load are securely fastened in a manner to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.
- C. If a person is found in violation of this section and the violation:
 - 1. Does not cause any damage or injury and is the person's:
- (a) First violation in a sixty month period, the person is subject to a civil penalty of $\frac{dp}{dt}$ NOT MORE THAN two hundred fifty dollars.
- (b) Second or subsequent violation in a sixty month period, the person is subject to a civil penalty of $\frac{dp}{dt}$ NOT MORE THAN three hundred fifty dollars.
- 2. Results in an accident causing serious physical injury as defined in section 13–105 to another person, the person is subject to a civil penalty of $\frac{dp}{dp}$ NOT MORE THAN five hundred dollars.
- 3. Results in an accident causing the death of another person, the person is subject to a civil penalty of $\frac{dp}{dp}$ NOT MORE THAN one thousand dollars.
 - Sec. 7. Section 28-6705, Arizona Revised Statutes, is amended to read: 28-6705. <u>Public road and street maintenance</u>
- A. The board of supervisors may spend public monies for maintenance of public roads and streets other than legally designated state and county highways located without the limits of an incorporated city or town. Before spending public monies under this section, the roads or streets shall be both:
 - 1. Laid out, opened and constructed without cost to the county.
- 2. Completed pursuant to a plat approved pursuant to sections 11-802 and 11-806.01 and in accordance with standard engineering road specifications adopted by the board of supervisors to ensure uniform compliance.
- B. The board of supervisors may spend public monies for maintenance of public roads and streets laid out, constructed and opened before June 13,

- 7 -

1975 even if the roads and streets were not constructed in accordance with subsection A of this section.

- C. Maintenance of a public road or street does not include purchasing or laying cement. To reduce long-term maintenance costs for maintenance authorized by this section, the board of supervisors may spend monies to add rock products, gravel and processed materials to the base of the roads and streets. Petroleum based or nonpetroleum based products may be used in the maintenance and repair of unpaved roads, alleys and shoulders identified pursuant to section 9-500.04 or section 49-474.01 OR UNPAVED ROADS, ALLEYS AND SHOULDERS IN ANY COUNTY WHERE THE CONTROL OFFICER AS DEFINED IN SECTION 49-471 CERTIFIES TO THE BOARD OF SUPERVISORS THAT EMISSIONS FROM SUCH ROADS, ALLEYS OR SHOULDERS MAY ENDANGER COMPLIANCE WITH THE NATIONAL AMBIENT AIR QUALITY STANDARD AS DEFINED IN SECTION 49-401.01.
- Sec. 8. Section 41-2083, Arizona Revised Statutes, as amended by Laws 2007, chapter 145, section 1, is amended to read:

41-2083. Standards for motor fuel: exceptions

- A. Except as provided in SECTION 41-2083.01 AND subsections C, D, E, F, G, K, L, M and N of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the director.
- B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive.
- C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the director of the department of weights and measures by rule.
- D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A as defined in section 49-541 shall be 9.0 pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.
- E. From and after September 30 through March 31 of each year a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume per cent evaporated distillation temperature.
- F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand

- 8 -

persons or more and any portion of a county contained in area A as defined in section 49-541 shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.

- G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B as defined in section 49-541 shall be ten pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.
- H. Notwithstanding subsections D, F and G of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors determine will result in either of the following:
- 1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section 41-2123. In making this determination, the director of the department of weights and measures and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section 41-2123.
- 2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the director of the department of weights and measures and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.
- I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of

- 9 -

 the department of weights and measures no later than sixty days before the first day of a gasoline control period.

- J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:
- 1. For low sulfur diesel fuel, five hundred parts per million by weight for use in area A as defined in section 49-541.
- 2. For ultra low sulfur diesel fuel, the amount that conforms with 40 Code of Federal Regulations section 80.520(a)(1).
- K. A person shall not sell or offer or expose for sale biodiesel that is not tested or does not meet the specifications established by ASTM D6751 or any blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D975 and that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.
- L. A person that blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:
 - 1. The percentage of biodiesel in a final blend.
 - 2. The volume of the finished product.
- 3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.
- 4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:
 - (a) Sulfur content.
 - (b) Aromatic hydrocarbon content.
 - (c) Cetane number.
 - (d) Specific gravity.
 - (e) American petroleum institute gravity.
- (f) The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.
- M. The report required by subsection L of this section shall be on a form prescribed by the director and shall contain a certification of truthfulness and accuracy of the data submitted and a statement of the supplier's consent permitting the department or its authorized agent to collect samples and access records as provided in rules adopted by the department. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.
- N. A person shall label dispensers at which biodiesel is dispensed in such a manner as to notify other persons of the volume percentage of biodiesel in the finished product and that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

- 10 -

- 0. A person shall label each dispenser at which ultra low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.
- P. A person shall label each dispenser at which low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.
- Q. If any person transfers custody or title of a diesel fuel or distillate, except if the diesel fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590.
- R. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection Q of this section as well as the name and address of the final destination for the shipment, as prescribed by department rule, and must accompany the shipment to its final destination.
- Sec. 9. Section 41-2083, Arizona Revised Statutes, as amended by Laws 2007, chapter 145, section 2, is amended to read:

41-2083. Standards for motor fuel; exceptions

- A. Except as provided in SECTION 41-2083.01 AND subsections C, D, E, F, G, K, L, M and N of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the director.
- B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive.
- C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the director of the department of weights and measures by rule.
- D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A as defined in section 49-541 shall be 9.0 pounds per square inch from and after September 30 through January 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.
- E. From and after September 30 through March 31 of each year a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor $\frac{1}{2}$

- 11 -

pressure/distillation class ten volume per cent evaporated distillation temperature.

- F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand persons or more and any portion of a county contained in area A as defined in section 49-541 shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.
- G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B as defined in section 49-541 shall be ten pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.
- H. Notwithstanding subsections D, F and G of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors determine will result in either of the following:
- 1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section 41-2123. In making this determination, the director of the department of weights and measures and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section 41-2123.
- 2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the director of the department of weights and measures and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.
- I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any

- 12 -

manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures no later than sixty days before the first day of a gasoline control period.

- J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:
- 1. For low sulfur diesel fuel, five hundred parts per million by weight for use in area A as defined in section 49-541.
- 2. For ultra low sulfur diesel fuel, the amount that conforms with 40 Code of Federal Regulations section 80.520(a)(1).
- K. A person shall not sell or offer or expose for sale biodiesel that is not tested or does not meet the specifications established by ASTM D6751 or any blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D975 and that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.
- L. A person who blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:
 - 1. The percentage of biodiesel in a final blend.
 - 2. The volume of the finished product.
- 3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.
- 4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:
 - (a) Sulfur content.
 - (b) Aromatic hydrocarbon content.
 - (c) Cetane number.
 - (d) Specific gravity.
 - (e) American petroleum institute gravity.
- (f) The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.
- M. The report required by subsection L of this section shall be on a form prescribed by the director and shall contain a certification of truthfulness and accuracy of the data submitted and a statement of the supplier's consent permitting the department or its authorized agent to collect samples and access records as provided in rules adopted by the department. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.
- N. A person shall label dispensers at which biodiesel is dispensed in such a manner as to notify other persons of the volume percentage of

- 13 -

biodiesel in the finished product and that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

- 0. A person shall label each dispenser at which ultra low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.
- P. A person shall label each dispenser at which low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.
- Q. If any person transfers custody or title of a diesel fuel or distillate, except if the diesel fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590.
- R. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection Q of this section as well as the name and address of the final destination for the shipment, as prescribed by department rule, and must accompany the shipment to its final destination.
- Sec. 10. Title 41, chapter 15, article 3, Arizona Revised Statutes, is amended by adding section 41-2083.01, to read:

41-2083.01. Area C: standards for motor fuel; exceptions

- A. EXCEPT AS PROVIDED IN SUBSECTIONS C AND D OF THIS SECTION, AFTER MAY 31, 2008, A RETAIL SELLER OR FLEET OWNER SHALL NOT STORE, SELL OR EXPOSE OR OFFER FOR SALE IN AREA C AS DEFINED IN SECTION 41-2121 ANY MOTOR FUEL, KEROSENE, OIL OR OTHER LIQUID OR GASEOUS FUEL OR LUBRICATING OIL, LUBRICANT, MIXTURES OF LUBRICANTS OR OTHER SIMILAR PRODUCTS IF THE PRODUCT FAILS TO MEET THE STANDARDS SPECIFIED IN THIS SECTION AND IN THE RULES ADOPTED BY THE DIRECTOR.
- B. A PERSON SHALL NOT MISREPRESENT THE NATURE, ORIGINATION, QUALITY, GRADE OR IDENTITY OF ANY PRODUCT SPECIFIED IN SUBSECTION A OF THIS SECTION OR REPRESENT THE NATURE, ORIGINATION, QUALITY, GRADE OR IDENTITY OF SUCH PRODUCT IN ANY MANNER CALCULATED OR TENDING TO MISLEAD OR IN ANY WAY DECEIVE.
- C. AFTER CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE STANDARDS AND TEST METHODS FOR MOTOR FUELS SHALL BE ESTABLISHED BY THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES BY RULE.
- D. MAXIMUM VAPOR PRESSURE FOR GASOLINE THAT IS SUPPLIED OR SOLD BY ANY PERSON AND THAT IS INTENDED AS A FINAL PRODUCT FOR THE FUELING OF MOTOR VEHICLES IN AREA C AS DEFINED IN SECTION 41-2121 SHALL BE 7.0 POUNDS PER SQUARE INCH FROM AND AFTER MAY 31 THROUGH SEPTEMBER 30 OF EACH YEAR. FUEL USED IN MOTOR VEHICLES AT A MANUFACTURER'S PROVING GROUND OR A MOTOR VEHICLE RACING EVENT AS DEFINED BY SECTION 41-2121 IS EXEMPT FROM THIS SUBSECTION.

- 14 -

- E. THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL APPROVE ALTERNATE FUEL CONTROL MEASURES THAT ARE SUBMITTED BY MANUFACTURERS OR SUPPLIERS OF GASOLINE AND THAT THE DIRECTORS DETERMINE WILL RESULT IN MOTOR VEHICLE NON-METHANE HYDROCARBON EMISSIONS THAT ARE EQUAL TO OR LESS THAN THE EMISSIONS THAT RESULT UNDER COMPLIANCE WITH SUBSECTION D OF THIS SECTION. IN MAKING THIS DETERMINATION, THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES AND THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL COMPARE THE MOTOR VEHICLE NON-METHANE HYDROCARBON EMISSIONS OF THE ALTERNATE FUEL CONTROL MEASURE WITH THE MOTOR VEHICLE NON-METHANE HYDROCARBON EMISSIONS OF A FUEL THAT COMPLIES WITH THE MAXIMUM VAPOR PRESSURE STANDARD AS PRESCRIBED BY SUBSECTION D OF THIS SECTION.
- F. ANY ALTERNATE FUEL CONTROL MEASURES THAT ARE APPROVED SHALL NOT INCREASE EMISSIONS OF NON-METHANE HYDROCARBONS, PARTICULATES, CARBON MONOXIDE OR OXIDES OF NITROGEN. ALTERNATE FUEL CONTROL MEASURES APPROVED PURSUANT TO SUBSECTION E OF THIS SECTION AND THIS SUBSECTION MAY BE USED BY ANY MANUFACTURER OR SUPPLIER OF GASOLINE UNLESS THE APPROVAL IS RESCINDED MORE THAN ONE HUNDRED EIGHTY DAYS BEFORE THE FIRST DAY OF A GASOLINE CONTROL PERIOD. MANUFACTURERS AND SUPPLIERS WHO USE AN APPROVED ALTERNATE FUEL CONTROL MEASURE SHALL ANNUALLY SUBMIT A COMPLIANCE PLAN TO THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES NO LATER THAN SIXTY DAYS BEFORE THE FIRST DAY OF A GASOLINE CONTROL PERIOD.
- Sec. 11. Section 41-2121, Arizona Revised Statutes, is amended to read:

41-2121. Definitions

In this article, unless the context otherwise requires:

- 1. "Area A" has the same meaning prescribed in section 49-541.
- "Area B" has the same meaning prescribed in section 49–541.
- 3. "AREA C" MEANS THAT PORTION OF PINAL COUNTY LYING WEST OF RANGE 11 EAST, EXCLUDING THAT PORTION OF THE COUNTY LYING WITHIN AREA A AS DEFINED IN SECTION 49-541 AND THAT PORTION OF THE COUNTY WITHIN THE JURISDICTION OF ANY INDIAN TRIBE, BAND, GROUP OR COMMUNITY THAT IS RECOGNIZED BY THE UNITED STATES SECRETARY OF THE INTERIOR AND THAT EXERCISES GOVERNMENTAL AUTHORITY WITHIN THE LIMITS OF ANY INDIAN RESERVATION UNDER THE JURISDICTION OF THE UNITED STATES GOVERNMENT, NOTWITHSTANDING THE ISSUANCE OF ANY PATENT AND INCLUDING RIGHTS-OF-WAY RUNNING THROUGH THE RESERVATION.
- 3. 4. "Fleet owner" means a registered owner or lessee of at least twenty-five vehicles.
- 4. 5. "Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than five one-hundredths grams of lead for each United States gallon, that is produced, refined, manufactured, blended, distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other flammable liquids free from undissolved water, sediment or suspended matter, with or without additives, and that is commonly used as a

- 15 -

fuel for spark ignition internal combustion engines. Gasoline does not include diesel fuel or the ethanol blend E85 as defined in ASTM D5798-99.

- 5. 6. "Manufacturer's proving ground" means a facility whose sole purpose is to develop complete advanced vehicles for an automotive manufacturer.
- 6. 7. "Motor vehicle racing event" means a race that uses unlicensed vehicles that are designed and manufactured specifically for racing purposes and that is conducted on a public or private racecourse for the entertainment of the general public. A motor vehicle racing event includes practice, qualifying and demonstration laps conducted as part of the activities related to a motor vehicle race.
- 7.8. "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and that is approved as a blending agent under the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).
- 8. "Oxygenated fuel" means an unleaded motor fuel blend that consists primarily of gasoline and at least one and one-half per cent by weight of one or more oxygenates and that has been blended consistent with the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).
- 9.10. "Product transfer document" means any bill of lading, loading ticket, manifest, delivery receipt, invoice or other documentation used on any occasion when a person transfers custody or title of motor fuel other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility.
- 10. 11. "Supplier" means any person who imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person who sells gasoline intended for ultimate consumption within a vehicle emissions control area, except that supplier does not mean a person with respect to gasoline supplied or sold by the person to another for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.
- 11. 12. "Vehicle emissions control area" has the same meaning prescribed in section 49-541, except that such an area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.
- Sec. 12. Title 41, chapter 15, article 6, Arizona Revised Statutes, is amended by adding section 41-2124.01, to read:
 - 41-2124.01. Area C: fuel reformulation; rules
- A. FROM AND AFTER MAY 31, 2008 THROUGH SEPTEMBER 30, 2008 AND DURING THE PERIOD FROM AND AFTER MAY 31 THROUGH SEPTEMBER 30 OF EACH SUBSEQUENT YEAR. ALL GASOLINE PRODUCED AND SHIPPED TO OR WITHIN THIS STATE AND SOLD OR

- 16 -

OFFERED FOR SALE FOR USE IN MOTOR VEHICLES IN AREA C SHALL COMPLY WITH EITHER OF THE FOLLOWING FUEL REFORMULATION OPTIONS:

- 1. A GASOLINE THAT MEETS STANDARDS FOR FEDERAL PHASE II REFORMULATED GASOLINE, AS PROVIDED IN 40 CODE OF FEDERAL REGULATIONS SECTION 80.41, PARAGRAPHS (e) THROUGH (h), IN EFFECT ON JANUARY 1, 1999, EXCEPT THAT THE MINIMUM OXYGEN CONTENT STANDARD DOES NOT APPLY. THE GASOLINE SHALL ALSO MEET THE MAXIMUM VAPOR PRESSURE REQUIREMENTS IN SECTION 41-2083.01, SUBSECTION D.
- 2. CALIFORNIA PHASE 2 REFORMULATED GASOLINE, INCLUDING ALTERNATIVE FORMULATIONS ALLOWED BY THE PREDICTIVE MODEL, AS ADOPTED BY THE CALIFORNIA AIR RESOURCES BOARD PURSUANT TO CALIFORNIA CODE OF REGULATIONS TITLE 13, SECTIONS 2261 THROUGH 2262.7 AND 2265, IN EFFECT ON JANUARY 1, 1997, EXCEPT THAT THE MINIMUM OXYGEN CONTENT STANDARD DOES NOT APPLY. THE GASOLINE SHALL ALSO MEET THE MAXIMUM VAPOR PRESSURE REQUIREMENTS IN SECTION 41-2083.01, SUBSECTION D.
- B. ANY REGISTERED SUPPLIER, AS DEFINED IN DEPARTMENT RULES, MAY PETITION THE DIRECTOR TO REQUEST THAT ALL REGISTERED SUPPLIERS BE ALLOWED TO SUPPLY GASOLINE IN AREA C THAT DOES NOT MEET THE STANDARDS IN SUBSECTION A OF THIS SECTION IF THE PETITIONER DEMONSTRATES THAT A SHORTAGE IN THE SUPPLY OF GASOLINE MEETING THE STANDARDS IN SUBSECTION A OF THIS SECTION IS IMMINENT.
 - C. A PETITION UNDER SUBSECTION B OF THIS SECTION SHALL:
- 1. IDENTIFY SPECIFIC SUPPLY CONDITIONS THAT WILL RESULT IN A SHORTAGE OF GASOLINE MEETING THE STANDARDS IN SUBSECTION A OF THIS SECTION.
- 2. IDENTIFY THE FORMULATION OF GASOLINE THAT WILL BE SOLD IN AREA C IN LIEU OF GASOLINE MEETING THE STANDARDS IN SUBSECTION A OF THIS SECTION.
- 3. SPECIFY A TIME PERIOD FOR COMPLIANCE WITH THE STANDARDS OF SUBSECTION A OF THIS SECTION NOT TO EXCEED SIXTY DAYS.
- D. THE DIRECTOR SHALL EITHER GRANT OR DENY A PETITION UNDER SUBSECTION B OF THIS SECTION IN WRITING WITHIN SEVEN DAYS OF ITS RECEIPT. ANY DECISION BY THE DIRECTOR TO GRANT THE PETITION SHALL BE EQUALLY APPLICABLE TO ALL REGISTERED SUPPLIERS AND SHALL NOT BE SELECTIVELY APPLIED TO ANY SINGLE REGISTERED SUPPLIER. THE PETITION MAY BE GRANTED ONLY IF THE DIRECTOR VERIFIES THAT THE BASIS FOR REQUESTING THE PETITION IS FACTUAL.
- E. THE DIRECTOR MAY REAUTHORIZE A PETITION GRANTED UNDER SUBSECTION B OF THIS SECTION IF THE PETITIONER DEMONSTRATES THAT THE CONDITIONS IDENTIFIED IN THE PETITION HAVE CONTINUED. THE REAUTHORIZATION OF A PETITION SHALL NOT EXCEED THIRTY DAYS.
- F. THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL CONSULT WITH THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY BEFORE GRANTING, REAUTHORIZING OR DENYING ANY PETITION UNDER SUBSECTION B OF THIS SECTION.
- G. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL ADOPT BY RULE:
 - 1. REQUIREMENTS TO IMPLEMENT SUBSECTIONS A, B AND C OF THIS SECTION.

- 17 -

- 2. REQUIREMENTS FOR RECORD KEEPING, REPORTING AND ANALYTICAL METHODS FOR FUEL PROVIDERS TO DEMONSTRATE COMPLIANCE WITH SUBSECTION A OF THIS SECTION.
- H. THIS SECTION DOES NOT APPLY TO FUEL SOLD FOR USE AT A MOTOR VEHICLE MANUFACTURER PROVING GROUND OR AT A MOTOR VEHICLE RACING EVENT.
- Sec. 13. Section 41-2124.01, Arizona Revised Statutes, as added by section 12 of this act, is amended to read:

41-2124.01. Area C; fuel reformulation; rules

- A. From and after May 31, 2008 through September 30, 2008 and during the period from and after May 31 through September 30 of each subsequent year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with either of the following fuel reformulation options:
- 1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083.01, subsection D.
- 2. California phase 2-3 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2263, 2265 AND 2266.5, in effect on January 1, 1997 MAY 1, 2003, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum INCLUDING vapor pressure requirements in section 41-2083.01, subsection D CONTAINED IN SECTION 2262.4.
- B. Any registered supplier, as defined in department rules, may petition the director to request that all registered suppliers be allowed to supply gasoline in area C that does not meet the standards in subsection A of this section if the petitioner demonstrates that a shortage in the supply of gasoline meeting the standards in subsection A of this section is imminent.
 - C. A petition under subsection B of this section shall:
- 1. Identify specific supply conditions that will result in a shortage of gasoline meeting the standards in subsection A of this section.
- 2. Identify the formulation of gasoline that will be sold in area C in lieu of gasoline meeting the standards in subsection A of this section.
- 3. Specify a time period for compliance with the standards of subsection A of this section not to exceed sixty days.
- D. The director shall either grant or deny a petition under subsection B of this section in writing within seven days of its receipt. Any decision by the director to grant the petition shall be equally applicable to all registered suppliers and shall not be selectively applied to any single registered supplier. The petition may be granted only if the director verifies that the basis for requesting the petition is factual.
- $\hbox{\bf E.} \quad \hbox{The director may reauthorize a petition granted under subsection G of this section if the petitioner demonstrates that the conditions identified}$

- 18 -

in the petition have continued. The reauthorization of a petition shall not exceed thirty days.

- F. The director of the department of weights and measures shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any petition under subsection B of this section.
- G. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:
 - 1. Requirements to implement subsections A, B and C of this section.
- 2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsection A of this section.
- H. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.
 - Sec. 14. Section 49-457, Arizona Revised Statutes, is amended to read: 49-457. Agricultural best management practices committee:

members: powers: permits: definitions

- A. A best management practices committee for regulated agricultural activities is established.
 - B. The committee shall consist of:
 - 1. The director OF ENVIRONMENTAL QUALITY or the director's designee.
- 2. The director of the ARIZONA department of agriculture or the director's designee.
- 3. The dean of the college of agriculture of the university of Arizona or the dean's designee.
- 4. The state director of the United States natural resources conservation service or the director's designee.
 - 5. One person actively engaged in the production of citrus.
 - 6. One person actively engaged in the production of vegetables.
 - 7. One person actively engaged in the production of cotton.
 - 8. One person actively engaged in the production of alfalfa.
 - 9. One person actively engaged in the production of grain.
- 10. One soil taxonomist from the university of Arizona college of agriculture.
- C. The governor shall appoint the members designated pursuant to subsection A-B, paragraphs 5 through 10 of this section for a term of six years. Members may be reappointed. Members are not entitled to compensation for their services but are entitled to receive reimbursement of expenses pursuant to section 38-611, subsection B TITLE 38, CHAPTER 4, ARTICLE 2.
- D. The committee shall elect a chairman from the appointed members to serve a two year term.
- E. The committee shall meet at the call of the chairman or at the request of a majority of the appointed members.

- 19 -

- F. The department of environmental quality, the ARIZONA department of agriculture and the college of agriculture of the university of Arizona shall cooperate with and provide technical assistance and any necessary information to the committee. The department of environmental quality shall provide the necessary staff support and meeting facilities for the committee.
- G. Notwithstanding subsections I, J and K of this section, a person engaged in a regulated agricultural activity on the effective date of this section AUGUST 21, 1998 shall comply with the general permit as provided in subsection H of this section by December 31, 2001. A person who commences a regulated agricultural activity after December 31, 2000, shall comply with the general permit within eighteen months of commencing the activity.
- H. By June 10, 2000, the committee shall adopt, by rule, an agricultural general permit specifying best management practices for regulated agricultural activities to reduce PM-10 particulate emissions. A person subject to an agricultural general permit pursuant to this section is not subject to a permit issued pursuant to section 49-426 except as provided in subsection K of this section. The committee shall adopt by rule a list of best management practices, at least one TWO of which shall be used to demonstrate compliance with applicable provisions of the general permit no later than December 31, 2001 2007. Best management practices may vary within the Maricopa PM-10 particulate nonattainment REGULATED area, according to regional or geographical conditions or cropping patterns. The director shall submit the rule to the United States environmental protection agency as a revision to the applicable implementation plan within sixty days of adoption NO LATER THAN DECEMBER 31, 2007.
- I. If the director determines that a person engaged in a regulated activity is not in compliance with the general permit, and that person has not previously been subject to a compliance order issued pursuant to this section, the director may serve upon the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than six months, to submit a plan to the supervisors of the natural resource conservation district in which the person engages in the regulated activity that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.
- J. If the director determines that a person engaged in a regulated activity is not in compliance with the general permit, and that person has previously submitted a plan pursuant to subsection I of this section, the director may serve upon the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the

- 20 -

noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than six months, to submit a plan to the department that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

- K. If a person fails to comply with the plan submitted pursuant to subsection J of this section, the director may revoke the agricultural general permit for that person and $\frac{to}{to}$ require that the person obtain an individual permit pursuant to section 49-426. A revocation becomes effective after the director has provided the person with notice and an opportunity for a hearing pursuant to title 41, chapter 6, article 10.
- L. The committee may periodically reexamine, evaluate and modify best management practices. Any approved modifications shall be submitted to the United States environmental protection agency as a revision to the applicable implementation plan.
- M. The committee shall develop and commence an education program by June 10, 2000. The education program shall be conducted by the director or the director's designee or designees.
 - N. In this section, unless the context otherwise requires:
 - 1. "Agricultural general permit" means best management practices that:
- (a) Reduce PM-10 particulate emissions from tillage practices and from harvesting on a commercial farm.
- (b) Reduce PM-10 particulate emissions from those areas of a commercial farm that are not normally in crop production.
- (c) Reduce PM-10 particulate emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.
- 2. "Applicable implementation plan" means that term as defined in 42 United States Code SECTION 7601(q).
- 3. "Best management practices" means techniques THAT ARE verified by scientific research.— AND that on a case by case basis are practical, economically feasible and effective in reducing PM-10 particulate emissions from a regulated agricultural activity.
- 4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix planning area as set forth in 40 Code of Federal Regulations $\frac{part}{part}$ SECTION 81.303.
- 5. "Regulated agricultural activities" means commercial farming practices that may produce PM-10 particulate emissions within the $\frac{Maricopa}{PM-10}$ particulate nonattainment area REGULATED AREA.
- 6. "REGULATED AREA" MEANS THE MARICOPA PM-10 NONATTAINMENT AREA AND ANY PORTION OF AREA A THAT IS LOCATED IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS.

- 21 -

Sec. 15. Title 49, chapter 3, article 2, Arizona Revised Statutes, is amended by adding sections 49-457.01, 49-457.02, 49-457.03 and 49-457.04, to read:

49-457.01. <u>Leaf blower use restrictions and training; leaf blower equipment sellers; informational material; outreach; applicability</u>

- A. THIS SECTION APPLIES IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS OR ANY PORTION OF A COUNTY WITHIN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA.
- B. AFTER MARCH 31, 2008, NO PERSON MAY USE A LEAF BLOWER TO BLOW LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS.
- C. AFTER MARCH 31, 2008, NO PERSON MAY OPERATE A LEAF BLOWER EXCEPT ON SURFACES THAT HAVE BEEN STABILIZED WITH ASPHALTIC CONCRETE, CEMENT CONCRETE, HARDSCAPE, PENETRATION TREATMENT OF BITUMINOUS MATERIAL AND SEAL COAT OF BITUMINOUS BINDER AND A MINERAL AGGREGATE, DECOMPOSED GRANITE COVER, CRUSHED GRANITE COVER, AGGREGATE COVER, GRAVEL COVER, OR GRASS OR OTHER CONTINUOUS VEGETATIVE COVER, OR ANY COMBINATION OF THOSE STABILIZERS.
- D. AT LEAST ONCE EVERY THREE YEARS, ANY PERSON OPERATING A LEAF BLOWER FOR REMUNERATION SHALL SUCCESSFULLY COMPLETE TRAINING APPROVED BY THE DEPARTMENT ON HOW TO OPERATE A LEAF BLOWER IN A MANNER DESIGNED TO MINIMIZE THE GENERATION OF FUGITIVE DUST EMISSIONS. ANY PERSON WHO IS REQUIRED TO BE TRAINED UNDER THIS SUBSECTION SHALL COMPLETE INITIAL TRAINING NO LATER THAN DECEMBER 31. 2008.
- E. ANY PERSON WHO RENTS OR SELLS IN THE NORMAL COURSE OF BUSINESS EQUIPMENT THAT IS USED FOR BLOWING LANDSCAPE DEBRIS SHALL PROVIDE TO THE BUYER OR RENTER OF THE EQUIPMENT PRINTED MATERIALS THAT ARE APPROVED BY THE DEPARTMENT PURSUANT TO THIS SECTION.
- F. THE DEPARTMENT SHALL PRODUCE PRINTED MATERIALS AND DISTRIBUTE THOSE MATERIALS TO PERSONS WHO SELL OR RENT EQUIPMENT USED FOR BLOWING LANDSCAPE DEBRIS. THE PRINTED MATERIALS SHALL BE DESIGNED TO EDUCATE AND INFORM THE USER OF THE EQUIPMENT ON THE SAFE AND EFFICIENT USE OF THE EQUIPMENT, INCLUDING METHODS FOR REDUCING THE GENERATION OF DUST, AND SHALL INCLUDE INFORMATION REGARDING DUST CONTROL ORDINANCES AND RESTRICTIONS THAT MAY BE APPLICABLE.
- G. THIS SECTION DOES NOT APPLY TO ANY SITE THAT HAS A PERMIT ISSUED BY A CONTROL OFFICER AS DEFINED IN SECTION 49-471 FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS.
 - 49-457.02. <u>Dust-free developments program; certification; seal</u>
- A. THE DEPARTMENT SHALL ESTABLISH THE DUST-FREE DEVELOPMENTS PROGRAM TO ENCOURAGE AND RECOGNIZE PERSONS AND ENTITIES THAT DEMONSTRATE EXCEPTIONAL COMMITMENT TO THE REDUCTION OF AIRBORNE DUST IN A COUNTY WITH A POPULATION OF MORE THAN TWO MILLION PERSONS AND IN THE PM-10 NONATTAINMENT AREA THAT CONTAINS THE CITY OF APACHE JUNCTION. THE PROGRAM SHALL INCLUDE A VOLUNTARY CERTIFICATION PROCESS BASED ON CRITERIA DEVELOPED BY THE DEPARTMENT.

- 22 -

- B. ANY PERSON OR ENTITY MAY APPLY FOR CERTIFICATION UNDER THE PROGRAM, AND IF APPROVED, MAY LAWFULLY USE A CERTIFICATION, SEAL, LOGO OR OTHER SIMILAR INDICATOR ESTABLISHED BY THE DEPARTMENT. A PERSON OR ENTITY THAT IS CERTIFIED UNDER THE PROGRAM MAY USE THE CERTIFICATION FOR PROMOTIONAL, CIVIC, PUBLIC RELATIONS OR PUBLIC INVOLVEMENT PURPOSES.
- C. NOTWITHSTANDING SECTION 41-3102, THIS PROGRAM DOES NOT INCLUDE A SPECIFIC EXPIRATION DATE.

49-457.03. Off-road vehicles: pollution advisory days: applicability: penalties

- A. IN AREA A. AS DEFINED IN SECTION 49-541, A PERSON SHALL NOT OPERATE AN OFF-HIGHWAY VEHICLE, AN ALL-TERRAIN VEHICLE OR AN OFF-ROAD RECREATIONAL MOTOR VEHICLE ON AN UNPAVED SURFACE THAT IS NOT A PUBLIC OR PRIVATE ROAD, STREET OR LAWFUL EASEMENT DURING ANY HIGH POLLUTION ADVISORY DAY FORECAST FOR PARTICULATE MATTER BY THE DEPARTMENT.
 - B. THIS SECTION DOES NOT APPLY TO:
- 1. AN EVENT THAT IS INTENDED FOR OFF-HIGHWAY VEHICLES, ALL-TERRAIN VEHICLES OR OFF-ROAD RECREATIONAL MOTOR VEHICLES AND THAT IS ENDORSED, AUTHORIZED, PERMITTED OR SPONSORED BY A PUBLIC AGENCY, THAT OCCURS ON A DESIGNATED ROUTE OR AREA AND THAT INCLUDES DUST ABATEMENT MEASURES AT ALL STAGING AREAS, PARKING AREAS AND ENTRANCES.
- 2. AN EVENT THAT OCCURS AT A FACILITY FOR WHICH AN ADMISSION OR USER FEE IS CHARGED AND THAT INCLUDES DUST ABATEMENT MEASURES.
 - 3. A CLOSED COURSE THAT IS MAINTAINED WITH DUST ABATEMENT MEASURES.
- 4. AN OFF-HIGHWAY VEHICLE, ALL-TERRAIN VEHICLE OR OFF-ROAD RECREATIONAL MOTOR VEHICLE USED IN THE NORMAL COURSE OF BUSINESS OR THE NORMAL COURSE OF GOVERNMENT OPERATIONS.
- 5. GOLF CARTS THAT ARE USED AS PART OF A PRIVATE OR PUBLIC GOLF COURSE OPERATION.
 - C. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO:
 - 1. A WARNING FOR THE FIRST VIOLATION.
- 2. THE IMPOSITION OF A CIVIL PENALTY OF FIFTY DOLLARS FOR THE SECOND VIOLATION.
- 3. THE IMPOSITION OF A CIVIL PENALTY OF ONE HUNDRED DOLLARS FOR THE THIRD VIOLATION.
- 4. THE IMPOSITION OF A CIVIL PENALTY OF TWO HUNDRED FIFTY DOLLARS FOR THE FOURTH OR ANY SUBSEQUENT VIOLATION.
- D. FOR VIOLATIONS OF THIS SECTION. THE CONTROL OFFICER OR OTHER ENFORCEMENT OFFICER SHALL USE A UNIFORM CIVIL TICKET AND COMPLAINT SUBSTANTIALLY SIMILAR TO A UNIFORM TRAFFIC TICKET AND COMPLAINT PRESCRIBED BY THE RULES OF PROCEDURE IN CIVIL TRAFFIC CASES ADOPTED BY THE SUPREME COURT. THE CONTROL OFFICER OR OTHER ENFORCEMENT OFFICER MAY ISSUE CITATIONS TO PERSONS IN VIOLATION OF THIS SECTION.

- 23 -

49-457.04. Off-highway vehicle and all-terrain vehicle dealers: informational material: outreach; applicability

- A. ANY PERSON WHO RENTS OR SELLS IN THE NORMAL COURSE OF BUSINESS OFF-HIGHWAY VEHICLES, ALL-TERRAIN VEHICLES OR OFF-ROAD RECREATIONAL MOTOR VEHICLES, OTHER THAN GOLF CARTS SOLD TO PUBLIC OR PRIVATE GOLF COURSES, SHALL PROVIDE TO THE BUYER OR RENTER OF THE VEHICLE PRINTED MATERIALS THAT ARE APPROVED BY THE DEPARTMENT PURSUANT TO THIS SECTION.
- B. THE DEPARTMENT SHALL PRODUCE PRINTED MATERIALS AND DISTRIBUTE THOSE MATERIALS TO PERSONS WHO SELL OR RENT OFF-HIGHWAY VEHICLES, ALL-TERRAIN VEHICLES OR OFF-ROAD RECREATIONAL MOTOR VEHICLES. THE PRINTED MATERIALS SHALL BE DESIGNED TO EDUCATE AND INFORM THE USER OF THE VEHICLE ON METHODS FOR REDUCING THE GENERATION OF DUST AND SHALL INCLUDE INFORMATION REGARDING DUST CONTROL ORDINANCES AND RESTRICTIONS THAT MAY BE APPLICABLE. THE DEPARTMENT SHALL MAKE AVAILABLE ON THE DEPARTMENT'S WEBSITE THE PRINTED MATERIALS IN A FORMAT THAT IS ACCESSIBLE TO THE PUBLIC.
- C. THIS SECTION APPLIES IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS OR ANY PORTION OF A COUNTY IN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA.
- Sec. 16. Section 49-474.01, Arizona Revised Statutes, is amended to read:

49-474.01. Additional board duties in vehicle emissions control areas; definitions

- A. The board of supervisors of a county which contains any portion of area A or area B as defined in section 49-541 shall:
- 1. In area A; in consultation with the designated metropolitan planning organization, synchronize traffic control signals on all existing and new roadways, within the unincorporated area and at jurisdictional boundaries, which have a traffic flow exceeding fifteen thousand motor vehicles per day.
- 2. In area A, beginning $\frac{\partial n}{\partial t}$ January 1, 2000, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting roads, alleys and arterials, a schedule for implementation, funding options and reporting requirements.
- 3. In area A, acquire or utilize vacuum systems or other dust removal technology to reduce the particulates attributable to conventional crack sealing operations as existing equipment is retired.
- 4. IN AREA A, BEGINNING JANUARY 1, 2008, DEVELOP AND IMPLEMENT PLANS TO STABILIZE TARGETED UNPAVED ROADS, ALLEYS AND UNPAVED SHOULDERS ON TARGETED ARTERIALS. THE PLANS SHALL ADDRESS THE PERFORMANCE GOALS, THE CRITERIA FOR TARGETING THE ROADS, ALLEYS AND SHOULDERS, A SCHEDULE FOR IMPLEMENTATION. FUNDING OPTIONS AND REPORTING REQUIREMENTS. PRIORITY SHALL BE GIVEN TO THE FOLLOWING:

- 24 -

- (a) UNPAVED ROADS WITH MORE THAN ONE HUNDRED AVERAGE DAILY TRIPS.
- (b) UNPAVED SHOULDERS ON ARTERIAL ROADS AND OTHER ROAD SEGMENTS WHERE VEHICLE USE ON UNPAVED SHOULDERS IS EVIDENT OR ANTICIPATED DUE TO PROJECTED TRAFFIC VOLUME.
- 5. IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS OR ANY PORTION OF A COUNTY IN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA, NO LATER THAN MARCH 31, 2008, ADOPT OR AMEND CODES OR ORDINANCES AND, NO LATER THAN OCTOBER 1, 2008, COMMENCE ENFORCEMENT OF THOSE CODES OR ORDINANCES AS NECESSARY TO REQUIRE THAT PARKING, MANEUVERING, INGRESS AND EGRESS AREAS AT DEVELOPMENTS OTHER THAN RESIDENTIAL BUILDINGS WITH FOUR OR FEWER UNITS ARE MAINTAINED WITH ONE OR MORE OF THE FOLLOWING DUSTPROOF PAVING METHODS:
 - (a) ASPHALTIC CONCRETE.
 - (b) CEMENT CONCRETE.
- (c) PENETRATION TREATMENT OF BITUMINOUS MATERIAL AND SEAL COAT OF BITUMINOUS BINDER AND A MINERAL AGGREGATE.
 - (d) A STABILIZATION METHOD APPROVED BY THE COUNTY.
- 6. IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS OR ANY PORTION OF A COUNTY IN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA, NO LATER THAN MARCH 31, 2008, ADOPT OR AMEND CODES OR ORDINANCES AND, NO LATER THAN OCTOBER 1, 2009, COMMENCE ENFORCEMENT OF THOSE CODES OR ORDINANCES AS NECESSARY TO REQUIRE THAT PARKING, MANEUVERING, INGRESS AND EGRESS AREAS THREE THOUSAND SQUARE FEET OR MORE IN SIZE AT RESIDENTIAL BUILDINGS WITH FOUR OR FEWER UNITS ARE MAINTAINED WITH A PAVING OR STABILIZATION METHOD AUTHORIZED BY THE COUNTY BY CODE, ORDINANCE OR PERMIT.
- 7. IN AREA A, NO LATER THAN MARCH 31, 2008, ADOPT OR AMEND CODES OR ORDINANCES AS NECESSARY TO RESTRICT VEHICLE PARKING AND USE ON UNPAVED OR UNSTABILIZED VACANT LOTS.
- 8. IN AREA A, REQUIRE THAT NEW OR RENEWED CONTRACTS FOR STREET SWEEPING ON CITY STREETS MUST BE CONDUCTED WITH STREET SWEEPERS THAT MEET THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT RULE 1186 STREET SWEEPER CERTIFICATION SPECIFICATIONS FOR PICK UP EFFICIENCY AND PM-10 EMISSIONS IN EFFECT ON JANUARY 1, 2007.
- 4. 9. In area B, synchronize traffic control signals on roadways with a traffic flow exceeding fifteen thousand motor vehicles per day.
- 5. 10. Implement adjusted work hours for at least eighty-five per cent of county employees in area A each year beginning October 1 and ending April 1 in order to reduce the level of carbon monoxide concentrations caused by vehicular travel.
- 11. IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS OR ANY PORTION OF A COUNTY WITHIN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA

- 25 -

THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA, NO LATER THAN MARCH 31, 2008, ADOPT RULE PROVISIONS, AND, NO LATER THAN OCTOBER 1, 2008, COMMENCE ENFORCEMENT OF THOSE RULE PROVISIONS REGARDING THE STABILIZATION OF DISTURBED SURFACES OF VACANT LOTS THAT INCLUDE THE FOLLOWING:

- (a) REASONABLE WRITTEN NOTICE TO THE OWNER OR THE OWNER'S AUTHORIZED AGENT OR THE OWNER'S STATUTORY AGENT THAT THE UNPAVED DISTURBED SURFACE OF A VACANT LOT IS REQUIRED TO BE STABILIZED. THE NOTICE SHALL BE GIVEN NOT LESS THAN THIRTY DAYS BEFORE THE DAY SET FOR COMPLIANCE AND SHALL INCLUDE A LEGAL DESCRIPTION OF THE PROPERTY AND THE ESTIMATED COST TO THE COUNTY FOR THE STABILIZATION IF THE OWNER DOES NOT COMPLY. THE NOTICE SHALL BE EITHER PERSONALLY SERVED OR MAILED BY CERTIFIED MAIL TO THE OWNER'S STATUTORY AGENT, TO THE OWNER AT THE OWNER'S LAST KNOWN ADDRESS OR TO THE ADDRESS TO WHICH THE TAX BILL FOR THE PROPERTY WAS LAST MAILED.
- (b) AUTHORITY FOR THE COUNTY TO ENTER THE LOT TO STABILIZE THE DISTURBED SURFACE AT THE EXPENSE OF THE OWNER IF THE VACANT LOT HAS NOT BEEN STABILIZED BY THE DAY SET FOR COMPLIANCE.
- (c) METHODS FOR STABILIZATION OF THE DISTURBED SURFACE OF THE VACANT LOT, THE ACTUAL COST OF STABILIZATION AND THE FINE THAT MAY BE IMPOSED FOR A VIOLATION OF THIS SECTION.
 - B. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 11 OF THIS SECTION:
- 1. "DISTURBED SURFACE" MEANS A PORTION OF THE EARTH'S SURFACE OR MATERIAL PLACED ON THE EARTH'S SURFACE THAT HAS BEEN PHYSICALLY MOVED, UNCOVERED, DESTABILIZED OR OTHERWISE MODIFIED FROM ITS UNDISTURBED NATIVE CONDITION IF THE POTENTIAL FOR THE EMISSION OF FUGITIVE DUST IS INCREASED BY THE MOVEMENT, DESTABILIZATION OR MODIFICATION.
- 2. VACANT LOTS DO NOT INCLUDE ANY SITE OF DISTURBED SURFACE AREA THAT IS SUBJECT TO A PERMIT ISSUED BY A CONTROL OFFICER THAT REQUIRES CONTROL OF PM-10 EMISSIONS FROM DUST GENERATING OPERATIONS.
- θ . C. The board of supervisors of a county that contains any portion of area A as defined in section 49-541 shall make and enforce ordinances consistent with section 49-588 to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the county and employees whose place of employment is within area A.
- 6. D. The board of supervisors in a county that contains any portion of area A shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in county owned vehicles operating in area A.
- D. E. The plan shall include a timetable for increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion. The timetable shall reflect the following schedule and percentage of vehicles that operate on alternative fuels or clean burning fuels:
 - 1. At least eighteen per cent of the total fleet by December 31, 1995.
- 2. At least twenty-five per cent of the total fleet by December 31, 1996.

- 26 -

2

3

4

5

6

7

8

9

10

11 12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34 35

36

37

38

39

40 41

42

43

44 45

- 3. At least fifty per cent of the total fleet by December 31, 1998.
- 4. At least seventy-five per cent of the total fleet by December 31, 2000 and each year thereafter.
- \leftarrow F. The requirements of subsections \leftarrow D and \rightarrow E of this section may be waived on receipt of certification supported by evidence acceptable to the department that the county is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than ten per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities Applications for waivers shall be filed with the department pursuant to section 49-412. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to section 49-555.
- \digamma G. If the requirements of subsections \varTheta D and \varTheta E of this section are met by the use of clean burning fuel, vehicle equivalents under those requirements shall be calculated as follows:
- 1. One vehicle equivalent for every four hundred fifty gallons of neat biodiesel or two thousand two hundred fifty gallons of a diesel fuel substitute prescribed in section 1-215, paragraph 7, subdivision (b).
- 2. One vehicle equivalent for every five hundred thirty gallons of the fuel prescribed in section 1-215, paragraph 7, subdivision (d).
- H. SUBSECTION A, PARAGRAPHS 5, 6 AND 7 OF THIS SECTION DO NOT APPLY TO ANY SITE THAT HAS A PERMIT ISSUED BY A CONTROL OFFICER AS DEFINED IN SECTION 49-471 FOR THE CONTROL OF FUGITIVE DUST FROM DUST GENERATING OPERATIONS.
- $rac{G_{+}}{G_{-}}$ I. For the purposes of this section, "alternative fuel" and "clean burning fuel" have the same meanings prescribed in section 1-215.
- Sec. 17. Title 49, chapter 3, article 3, Arizona Revised Statutes, is amended by adding sections 49-474.05, 49-474.06 and 49-474.07, to read:
 - 49-474.05. <u>Dust control: training: site coordinators</u>
- A. THIS SECTION APPLIES IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS OR ANY PORTION OF A COUNTY IN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA.
- B. NO LATER THAN JANUARY 1, 2008, THE CONTROL OFFICER SHALL DEVELOP AND IMPLEMENT BASIC AND COMPREHENSIVE TRAINING PROGRAMS FOR THE SUPPRESSION OF PM-10 EMISSIONS FROM SOURCES OF PM-10 THAT ARE SUBJECT TO A PERMIT ISSUED BY A CONTROL OFFICER THAT REQUIRES CONTROL OF PM-10 EMISSIONS FROM DUST

- 27 -

GENERATING OPERATIONS. THE CONTROL OFFICER MAY APPROVE TRAINING DEVELOPED AND PROVIDED BY A THIRD PARTY AND THE BOARD OF SUPERVISORS MAY ADOPT RULES PRESCRIBING STANDARDS FOR DUST CONTROL TRAINING.

- C. AT LEAST ONCE EVERY THREE YEARS, THE FOLLOWING PERSONS ARE REQUIRED TO SUCCESSFULLY COMPLETE BASIC DUST CONTROL TRAINING:
- 1. THE SITE SUPERINTENDENT OR OTHER DESIGNATED ON-SITE REPRESENTATIVE OF THE PERMIT HOLDER IF PRESENT AT A SITE THAT HAS MORE THAN ONE ACRE OF DISTURBED SURFACE AREA THAT IS SUBJECT TO A PERMIT ISSUED BY A CONTROL OFFICER REQUIRING CONTROL OF PM-10 EMISSIONS FROM DUST GENERATING OPERATIONS.
 - 2. WATER TRUCK AND WATER PULL DRIVERS.
- D. PERSONS WHO ARE REQUIRED TO BE TRAINED UNDER THIS SECTION SHALL COMPLETE THE TRAINING NO LATER THAN DECEMBER 31, 2008. ALL PERSONS WHO HAVE SUCCESSFULLY COMPLETED TRAINING DURING THE 2006 AND 2007 CALENDAR YEARS ARE DEEMED TO HAVE SATISFIED THIS REQUIREMENT IF THE TRAINING PROGRAM COMPLETED WAS CONDUCTED OR APPROVED BY A COUNTY AIR POLLUTION CONTROL OFFICER. COMPLETION OF THE TRAINING REQUIRED UNDER SUBSECTION G SATISFIES THE REQUIREMENTS OF THIS SUBSECTION.
- E. NO LATER THAN JUNE 30, 2008, THE PERMITTEE FOR ANY SITE OF FIVE ACRES OR MORE OF DISTURBED SURFACE AREA SUBJECT TO A PERMIT ISSUED BY A CONTROL OFFICER REQUIRING CONTROL OF PM-10 EMISSIONS FROM DUST GENERATING OPERATIONS SHALL HAVE ON SITE AT LEAST ONE DUST CONTROL COORDINATOR TRAINED IN ACCORDANCE WITH THIS SECTION AT ALL TIMES DURING PRIMARY DUST GENERATING OPERATIONS RELATED TO THE PURPOSES FOR WHICH THE DUST CONTROL PERMIT WAS OBTAINED.
- F. A DUST CONTROL COORDINATOR HAS FULL AUTHORITY TO ENSURE THAT DUST CONTROL MEASURES ARE IMPLEMENTED ON SITE, INCLUDING CONDUCTING INSPECTIONS, DEPLOYMENT OF DUST SUPPRESSION RESOURCES AND MODIFICATION OR SHUTDOWN OF ACTIVITIES AS NEEDED TO CONTROL DUST. THE DUST CONTROL COORDINATOR SHALL BE RESPONSIBLE FOR MANAGING DUST PREVENTION AND DUST CONTROL ON THE SITE.
- G. AT LEAST ONCE EVERY THREE YEARS, THE DUST CONTROL COORDINATOR SHALL SUCCESSFULLY COMPLETE A COMPREHENSIVE DUST CONTROL CLASS CONDUCTED OR APPROVED UNDER SUBSECTION A BY THE COUNTY AIR POLLUTION CONTROL OFFICER WITH JURISDICTION OVER THE SITE. THE DUST CONTROL COORDINATOR SHALL HAVE A VALID DUST TRAINING CERTIFICATION IDENTIFICATION CARD READILY ACCESSIBLE ON SITE WHILE ACTING AS A DUST CONTROL COORDINATOR. ALL PERSONS HAVING SUCCESSFULLY COMPLETED TRAINING DURING THE 2006 AND 2007 CALENDAR YEARS ARE DEEMED TO HAVE SATISFIED THIS REQUIREMENT IF THE TRAINING PROGRAM COMPLETED WAS CONDUCTED OR APPROVED BY A COUNTY AIR POLLUTION CONTROL OFFICER.
- H. SUBSECTIONS C AND D DO NOT APPLY WHEN ON-SITE DUST GENERATING OPERATIONS ARE CONDUCTED BY A PERMITTEE WHO IS REQUIRED TO OBTAIN A SINGLE PERMIT FOR MULTIPLE NONCONTIGUOUS SITES THAT IS ISSUED BY A CONTROL OFFICER AND THAT REQUIRES CONTROL OF PM-10 EMISSIONS.
- I. THE REQUIREMENTS OF SUBSECTIONS E AND F LAPSE IF ALL OF THE FOLLOWING APPLY:
 - 1. THE AREA OF THE DISTURBED SURFACE AREA IS LESS THAN FIVE ACRES.

- 28 -

- 2. THE PREVIOUSLY DISTURBED AREAS ARE STABILIZED IN ACCORDANCE WITH THE REQUIREMENTS OF APPLICABLE RULES.
- 3. THE PERMITTEE PROVIDES NOTICE OF THE ACREAGE STABILIZED TO THE CONTROL OFFICER.
- J. PERMITTEES WHO ARE REQUIRED TO OBTAIN A SINGLE PERMIT FOR MULTIPLE NONCONTIGUOUS SITES THAT IS ISSUED BY A CONTROL OFFICER AND THAT REQUIRES CONTROL OF PM-10 EMISSIONS FROM DUST GENERATING OPERATIONS SHALL HAVE ON SITES WITH GREATER THAN ONE ACRE OF DISTURBED SURFACE AREA AT LEAST ONE INDIVIDUAL WHO IS DESIGNATED BY THE PERMITTEE AS A DUST CONTROL COORDINATOR TRAINED IN ACCORDANCE WITH SUBSECTION C. THE DUST CONTROL COORDINATOR SHALL BE PRESENT ON SITE AT ALL TIMES DURING PRIMARY DUST GENERATING ACTIVITIES THAT ARE RELATED TO THE PURPOSES FOR WHICH THE PERMIT WAS OBTAINED. THIS SUBSECTION DOES NOT APPLY TO PERMITTEES SUBJECT TO SUBSECTIONS B AND C.

49-474.06. <u>Dust control</u>; <u>subcontractor registration</u>; <u>fee</u>

- A. IN AN AREA DESIGNATED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A SERIOUS PM-10 NONATTAINMENT AREA OR A MAINTENANCE AREA THAT WAS DESIGNATED AS A SERIOUS PM-10 NONATTAINMENT AREA, A SUBCONTRACTOR WHO IS ENGAGED IN DUST GENERATING OPERATIONS AT A SITE THAT IS SUBJECT TO A PERMIT THAT IS ISSUED BY A CONTROL OFFICER AND THAT REQUIRES CONTROL OF PM-10 EMISSIONS FROM DUST GENERATING OPERATIONS SHALL REGISTER WITH THE CONTROL OFFICER BY SUBMITTING INFORMATION IN THE MANNER PRESCRIBED BY THE CONTROL OFFICER. THE CONTROL OFFICER SHALL ISSUE A REGISTRATION NUMBER AFTER PAYMENT OF THE FEE AUTHORIZED UNDER SUBSECTION C.
- B. THE SUBCONTRACTOR SHALL HAVE ITS REGISTRATION NUMBER READILY ACCESSIBLE ON SITE WHILE CONDUCTING ANY DUST GENERATING OPERATIONS.
- C. THE CONTROL OFFICER MAY ESTABLISH AND ASSESS A FEE FOR THE REGISTRATION REQUIRED UNDER SUBSECTION A BASED ON THE TOTAL COST OF PROCESSING THE REGISTRATION AND ISSUANCE OF A REGISTRATION NUMBER.

49-474.07. <u>Voluntary diesel equipment retrofit program:</u>
criteria: inventory: permits

A. A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS SHALL OPERATE AND ADMINISTER A VOLUNTARY DIESEL EMISSIONS RETROFIT PROGRAM IN THE COUNTY FOR THE PURPOSE OF REDUCING PARTICULATE EMISSIONS FROM DIESEL EQUIPMENT. THE PROGRAM SHALL PROVIDE FOR REAL AND QUANTIFIABLE EMISSIONS REDUCTIONS BASED ON ACTUAL EMISSIONS REDUCTIONS BY AN AMOUNT GREATER THAN THAT ALREADY REQUIRED BY APPLICABLE LAW, RULE, PERMIT OR ORDER AND COMPUTED BASED ON THE PERCENTAGE EMISSIONS REDUCTIONS FROM THE TESTING OF THE DIESEL RETROFIT EQUIPMENT PRESCRIBED IN SUBSECTION C AS APPLIED TO THE RATED EMISSIONS OF THE ENGINE AND USING THE STANDARD OPERATING HOURS OF THE EQUIPMENT.

- B. A PERSON MAY PARTICIPATE IN THE PROGRAM IF BOTH OF THE FOLLOWING APPLY:
- 1. THE PERSON IS THE OWNER OF DIESEL POWERED EQUIPMENT THAT REQUIRES A PERMIT ISSUED PURSUANT TO THIS ARTICLE FOR LAWFUL OPERATION.

- 29 -

- 2. THE PERSON REPORTS TO THE CONTROL OFFICER ON THE TYPE OF EQUIPMENT THAT IS RETROFITTED, PROVIDES A METHOD FOR CALCULATING THE EMISSIONS REDUCTIONS ACHIEVED THAT IS APPROVED BY THE CONTROL OFFICER AND PROVIDES EVIDENCE THAT THE RETROFITTED EQUIPMENT IS ACTUALLY USED IN A MANNER THAT RESULTS IN LOWER PARTICULATE EMISSIONS WITH NO INCREASE IN EMISSIONS OF OTHER POLLUTANTS.
- C. THE VOLUNTARY DIESEL RETROFIT PROGRAM SHALL PROVIDE FOR THE FOLLOWING:
- 1. EACH PERSON WHO PARTICIPATES SHALL ALLOCATE TO THE AIR QUALITY EMISSIONS REDUCTION INVENTORY FOR THAT COUNTY ONE-HALF OF THE TOTAL PARTICULATE EMISSIONS REDUCTION ACHIEVED THROUGH THAT PERSON'S RETROFIT OF DIESEL EQUIPMENT OPERATING AT THE PERMITTED SITE WHETHER OR NOT THAT EQUIPMENT IS REQUIRED TO HAVE A PERMIT.
- 2. EACH PERSON WHO PARTICIPATES SHALL RETAIN ONE-HALF OF THE TOTAL PARTICULATE EMISSIONS REDUCTION ACHIEVED THROUGH THAT PERSON'S RETROFIT OF EQUIPMENT AT THE SITE FOR PURPOSES OF RECEIVING A MODIFICATION TO AN EXISTING PERMIT OR A PROVISION IN A NEW PERMIT THAT ALLOWS FOR EXTENDED HOURS OF OPERATION FOR THE PERMITTED EQUIPMENT, AS COMPARED TO THE EXISTING PERMIT, OR FOR NEW PERMITS, AS COMPARED TO PERMITS FOR SIMILAR EQUIPMENT.
- 3. THE DIESEL EMISSIONS REDUCTION EQUIPMENT THAT IS RETROFITTED SHALL BE REGISTERED WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY WITH NOTICE TO THE APPLICABLE COUNTY, SHALL BE TESTED WITH AN ISO 8178 TEST BY A PROPERLY EQUIPPED LABORATORY AND SHALL DEMONSTRATE AT LEAST A THIRTY-FIVE PER CENT REDUCTION IN PARTICULATE POLLUTION WITH NO INCREASE IN THE GENERATION OR EMISSION OF OTHER REGULATED POLLUTANTS. THIS PARAGRAPH APPLIES WITHOUT REGARD TO WHETHER THE PARTICIPANT IS REQUIRED TO OBTAIN AN AIR QUALITY PERMIT FOR THE EQUIPMENT.
- 4. THE CONTROL OFFICER SHALL PROVIDE A METHOD FOR DETERMINING THE PARTICIPANT'S ELIGIBILITY FOR THE PROGRAM AND FOR THE MODIFICATION OF EXISTING PERMITS OR FOR INCORPORATING THIS PROGRAM'S PROVISIONS INTO THE TERMS OF ANY APPLICABLE NEW PERMITS AS WELL AS ANY REPORTING REQUIREMENTS TO ENSURE CONTINUED USE OF THE EMISSIONS REDUCTION MEASURES.
- D. THIS SECTION DOES NOT AUTHORIZE A PERMIT CONDITION OR A MODIFICATION TO A PERMIT CONDITION THAT WOULD VIOLATE A REQUIREMENT OF THE CLEAN AIR ACT, THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER, INCLUDING THE NATIONAL AMBIENT AIR QUALITY STANDARDS. THIS SECTION DOES NOT AUTHORIZE THE USE OF REDUCTIONS IN MOBILE SOURCE EMISSIONS FOR PURPOSES OF DETERMINING THE APPLICABILITY OF NEW SOURCE REVIEW REQUIREMENTS.
 - Sec. 18. Section 49-501, Arizona Revised Statutes, is amended to read: 49-501. <u>Unlawful open burning: exceptions: fine: definition</u>
- A. Notwithstanding the provisions of any other section of this article: $\overline{}$
- 1. It is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open outdoor fire except as provided in this section.

- 30 -

- 2. FROM MAY 1 THROUGH SEPTEMBER 30 EACH YEAR, IT IS UNLAWFUL FOR ANY PERSON TO IGNITE, CAUSE TO BE IGNITED, PERMIT TO BE IGNITED OR SUFFER, ALLOW OR MAINTAIN ANY OPEN OUTDOOR FIRE IN AREA A AS DEFINED IN SECTION 49-541.
- \mathcal{C}_{\cdot} B. The following fires are excepted from the provisions of this section:
- 1. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.
- 2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
- 3. Fires set by or permitted by the director of the department of agriculture or county agricultural agents of the county for the purpose of disease and pest prevention.
- 4. Fires set by or permitted by the federal government or any of its departments, agencies or agents or the state or any of its agencies, departments or political subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.
- 5. Fires permitted by any rule or regulation issued pursuant to this article, by any conditional permit issued by a hearing board established under this article or by any rule or conditional permit issued pursuant to article 2 of this chapter when the department of environmental quality pursuant to section 49-402 has assumed jurisdiction of the county in which the fire is located.
- 6. Fires set for the disposal of dangerous materials where there is no safe alternate method of disposal.
- Θ C. Permission for the setting of any fire given by a public officer in the performance of official duty under subsection Θ B, paragraph 2, 3 or 4 OF THIS SECTION shall be given in writing and a copy of the written permission shall be transmitted immediately to the director OF ENVIRONMENTAL QUALITY and the control officer of the county, district or region in which such fire is allowed. The setting of any such fire shall be conducted in a manner and at such time as approved by the control officer or the director OF ENVIRONMENTAL QUALITY, unless doing so would defeat the purpose of the exemption.
- E. D. Notwithstanding section 49-107, the director may delegate authority for the issuance of open burning permits to a county, city, town or fire district. A county, city, town or fire district that has been delegated authority for the issuance of open burning permits may assign the issuance of these permits to a private fire protection service provider that performs fire protection services within that county, city, town or fire district. Any private fire protection service provider that is authorized to issue open burning permits pursuant to this subsection shall maintain a copy of all

- 31 -

currently effective permits issued including a means of contacting the person authorized by the permit to set the fire in the event that an order to extinguish the open burning is issued. Permits issued pursuant to this subsection shall contain both of the following:

- 1. Conditions that limit the manner and time of setting the fire and that are consistent with this section and rules adopted pursuant to this section.
- 2. A provision that all burning be extinguished at the discretion of the director or the director's authorized representative during periods of inadequate atmospheric smoke dispersion, periods of excessive visibility impairment that could adversely affect public safety or periods when smoke is blown into populated areas so as to create a public nuisance.
- \digamma . E. The director may issue a general permit to allow persons engaged in farming or ranching on forty acres or more in an unincorporated area to burn household waste, as defined in section 49-701, that is generated on site, if no household waste collection and disposal service is available. The general permit shall include the following:
 - 1. Conditions governing the method, manner and times for burning.
- 2. Limitation on materials which may be burned, including a prohibition on burning of materials which generate noxious fumes.
- 3. A requirement that any person seeking coverage under the general permit shall register with the director on a form prescribed by the director. Upon receipt of a registration form, the director shall notify the county in which the farm or ranch is located of such registration.
- 4. A statement that the director, a local air pollution control officer, or any other public officer may order the extinguishment of burning or may prohibit burning during periods of inadequate smoke dispersion or excessive visibility impairment or at other times when public health or safety could be adversely affected.
- G. F. Nothing in this section is intended to permit any practice which is a violation of any statute, ordinance, rule or regulation in a county with a population in excess of one million two hundred thousand persons. according to the most recent United States decennial census. NOTWITHSTANDING ANY OTHER LAW, SUCH A COUNTY SHALL PROHIBIT BY ORDINANCE THE USE OF WOOD BURNING CHIMINEAS, OUTDOOR FIRE PITS AND SIMILAR OUTDOOR FIRES ON THOSE DAYS FOR WHICH THE COUNTY HAS ISSUED A NO BURN DAY RESTRICTION.
- H. G. A person who violates any provision of this section may be served a notice of violation and be subject to the enforcement provisions of this article to the same extent as a person violating any rule or regulation adopted pursuant to this article, EXCEPT THAT A VIOLATION THAT LASTS NO MORE THAN TWENTY-FOUR HOURS AND THAT IS THE FIRST VIOLATION COMMITTED BY THAT PERSON IS SUBJECT TO A CIVIL PENALTY OF NO MORE THAN FIVE HUNDRED DOLLARS.
- I. Any violation of this section shall be punishable by a fine not to exceed twenty-five dollars.

- 32 -

8. H. FOR THE PURPOSES OF THIS SECTION, "open outdoor fire", as used in this section, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. FOR THE PURPOSES OF THIS SUBSECTION, "flue", as used in this subsection, means any duct or passage for air, gases or the like, such as a stack or chimney.

Sec. 19. Section 49-542, Arizona Revised Statutes, as amended by Laws 2007, chapter 171, section 5, is amended to read:

49-542. Emissions inspection program; powers and duties of director; administration; periodic inspection; minimum standards and rules; exceptions; definition

- A. The director shall administer a comprehensive annual or biennial emissions inspection program which shall require the inspection of vehicles in this state pursuant to this article and applicable administrative rules. Such inspection is required in area A and area B, for those vehicles owned by a person who is subject to section 15-1444 or 15-1627 and for those vehicles registered outside of area A or area B but used to commute to the driver's principal place of employment located within area A or area B. Inspection in other counties of the state shall commence upon application by a county board of supervisors for participation in such inspection program, subject to approval by the director. In all counties with a population of three hundred fifty thousand or fewer persons according to the most recent United States decennial census, except for the portion of counties that contain any portion of area A, the director shall as conditions dictate provide for testing to determine the effect of vehicle related pollution on ambient air quality in all communities with a metropolitan area population of twenty thousand persons or more according to the most recent United States decennial census. If such testing detects the violation of state ambient air quality standards by vehicle related pollution, the director shall forward a full report of such violation to the president of the senate, the speaker of the house of representatives and the governor.
- B. The state's annual or biennial emissions inspection program shall provide for vehicle inspections at official emissions inspection stations or at fleet emissions inspection stations. Each inspection station in area A shall employ at least one mechanic who is available during the station's hours of operation to provide technical advice and assistance for persons who fail the emissions test. The director may enter into agreements with the department of transportation or with county assessors for the use of official emissions inspection stations for the purpose of conducting vehicle registrations. An official or fleet emissions inspection station permit shall not be sold, assigned, transferred, conveyed or removed to another location except on such terms and conditions as the director may prescribe.
- C. Vehicles required to be inspected and registered in this state, except those provided for in section 49-546, shall be inspected, for the purpose of complying with the registration or reregistration requirement

- 33 -

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44 45 pursuant to subsection D of this section, in accordance with the provisions of this article no more than ninety days prior to each reregistration expiration date. A vehicle may be submitted voluntarily for inspection more than ninety days before the reregistration expiration date on payment of the prescribed inspection fee. Such voluntary inspection shall not be considered as compliance with the registration or reregistration requirement pursuant to subsection D of this section.

- D. A vehicle shall not be registered or reregistered until such vehicle has passed the emissions inspection, and the tampering inspection prescribed in subsection G of this section AND THE LIQUID FUEL LEAK INSPECTION PRESCRIBED IN SUBSECTION Z OF THIS SECTION or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered or reregistered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28, the cost of any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article or the vehicle is exempt under subsection J of this section.
- E. On the registration or reregistration of a vehicle which has complied with the minimum emissions standards pursuant to this section or is otherwise exempt under this section, the registering officer shall issue an air quality compliance sticker to the registered owner which shall be placed on the vehicle as prescribed by rule adopted by the department of transportation or issue a modified year validating tab as prescribed by rule adopted by the department of transportation. Those persons who reside outside of area A or area B but who elect to test their vehicle or are required to test their vehicle pursuant to this section and who comply with the minimum emissions standards pursuant to this section or are otherwise exempt under this section shall remit a compliance form, as prescribed by the department of transportation, and proof of compliance issued at an official emissions inspection station to the department of transportation along with the appropriate fees. The department of transportation shall then issue the person an air quality compliance sticker which shall be placed on the vehicle as prescribed by rule adopted by the department of transportation. registering officer or the department of transportation shall collect an air quality compliance fee of twenty-five cents. The registering officer or the department of transportation shall deposit, pursuant to sections 35–146 and 35-147, the air quality compliance fee in the state highway fund established by section 28-6991. The department of transportation shall deposit, pursuant to sections 35-146 and 35-147, any emissions inspection fee in the emissions inspection fund. The provisions of this subsection do not apply to those vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale of vehicles between motor vehicle dealers or vehicles leased to a person

- 34 -

residing outside of area A or area B by a leasing company whose place of business is in area A or area B.

- F. The director shall adopt minimum emissions standards pursuant to section 49-447 with which the various classes of vehicles shall be required to comply as follows:
- 1. For the purpose of determining compliance with minimum emissions standards in area B:
- (a) A motor vehicle manufactured in or before the 1980 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test condition. A diesel powered vehicle is subject to only a loaded test condition. The conditioning mode shall, at the option of the vehicle owner or owner's agent, be administered only after the vehicle has failed the curb idle test condition. Upon completion of such conditioning mode, a vehicle that has failed the curb idle test condition may be retested in the curb idle test condition. If the vehicle passes such retest, it shall be deemed in compliance with minimum emissions standards unless the vehicle fails the tampering inspection pursuant to subsection G of this section OR THE LIQUID LEAK FUEL INSPECTION PURSUANT TO SUBSECTION Z OF THIS SECTION.
- (b) A motor vehicle manufactured in or after the 1981 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test condition and the loaded test condition or an onboard diagnostic check as may be required pursuant to title II of the clean air act.
- 2. For purposes of determining compliance with minimum emissions standards and functional tests in area A:
- (a) Motor vehicles manufactured in or after model year 1981 with a gross vehicle weight rating of eighty-five hundred pounds or less, other than diesel powered vehicles, shall be required to take and pass a transient loaded emissions test or an onboard diagnostic check as may be required pursuant to title II of the clean air act.
- (b) Motor vehicles other than those prescribed by subdivision (a) of this paragraph and other than diesel powered vehicles shall be required to take and pass a steady state loaded test and a curb idle emissions test.
- (c) A diesel powered motor vehicle applying for registration or reregistration in area A shall be required to take and pass an annual emissions test conducted at an official emissions inspection station or a fleet emissions inspection station as follows:
- (i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.
- (ii) A test that conforms with the society for automotive engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds.
- (d) Motor vehicles by specific class or model year shall be required to take and pass any of the following tests:

- 35 -

- (i) An evaporative system purge test.
- (ii) An evaporative system integrity test.
- (e) An onboard diagnostic check as may be required pursuant to title II of the clean air act.
- 3. A motorcycle in area A or any constant four wheel drive vehicle shall be required to take and pass a curb idle emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act.
- 4. Fleet operators in area B must comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit under section 49-546 shall be tested as follows:
- (a) A motor vehicle manufactured in or before the 1980 model year shall take and pass only the curb idle test condition, except that a diesel powered vehicle is subject to only a loaded test condition.
- (b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test condition and a twenty-five hundred revolutions per minute unloaded test condition.
- 5. Vehicles owned or operated by the United States, this state or a political subdivision of this state shall comply with this subsection without regard to whether those vehicles are required to be registered in this state, except that alternative fuel vehicles of a school district that is located in area A shall be required to take and pass the curb idle test condition and the loaded test condition.
- 6. Fleet operators in area A shall comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to section 49-546 for purposes of determining compliance with minimum emission standards in area A shall be tested as follows:
- (a) A motor vehicle manufactured in or before the 1980 model year shall take and pass the curb idle test condition, except that a diesel powered vehicle is subject to only a loaded test condition.
- (b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test condition and a two thousand five hundred revolutions per minute unloaded test condition.
- 7. Beginning on January 1, 2004 and except for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.
- 8. Beginning on January 1, 2006 for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for

- 36 -

 which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

- G. In addition to an emissions inspection, a vehicle is subject to a tampering inspection on at least a biennial basis if the vehicle was manufactured after the 1974 model year and the vehicle is not subject to a transient loaded emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act. The director shall adopt vehicle configuration guidelines for the tampering inspection which shall be based on the original configuration of the vehicle when manufactured. The tampering inspection shall consist of the following:
- 1. A visual check to determine the presence of properly installed catalytic converters.
- 2. An examination to determine the presence of an operational air pump.
- 3. In area A, if the vehicle was manufactured after the 1974 model year and is not subject to a transient loaded emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act, a visual inspection for the presence or malfunction of the positive crankcase ventilation system and the evaporative control system.
- H. Vehicles required to be inspected shall undergo a functional test of the gas cap to determine if the cap holds pressure within limits prescribed by the director, except for any vehicle that is subject to an evaporative system integrity test.
- I. Motor vehicles failing the initial or subsequent test are not subject to a penalty fee for late registration renewal if the original testing was accomplished before the expiration date and if the registration renewal is received by the motor vehicle division or the county assessor within thirty days of the original test.
- J. The director may adopt rules for purposes of implementation, administration, regulation and enforcement of the provisions of this article including:
- 1. The submission of records relating to the emissions inspection of vehicles inspected by another jurisdiction in accordance with another inspection law and the acceptance of such inspection for compliance with the provisions of this article.
 - 2. The exemption from inspection of:
 - (a) A motor vehicle manufactured in or before the 1966 model year.
- (b) New vehicles originally registered at the time of initial retail sale and titling in this state pursuant to section 28-2153 or 28-2154.
- (c) Vehicles registered pursuant to title 28, chapter 7, article 7 or 8.

- 37 -

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16 17

18

19

20

21

22

23

24

25

26

27

28 29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

- (d) New vehicles before the sixth registration year after initial purchase or lease.
- (e) Vehicles which will not be available within the state during the ninety days prior to registration.
 - (f) Golf carts.
 - (g) Electrically-powered vehicles.
- (h) Vehicles with an engine displacement of less than ninety cubic centimeters.
 - (i) The sale of vehicles between motor vehicle dealers.
- (j) Vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.
 - (k) Collectible vehicles.
 - (1) Motorcycles in area B.
- 3. Compiling and maintaining records of emissions test results after servicing.
- 4. A procedure which shall allow the vehicle service and repair industry to compare the calibration accuracy of its emissions testing equipment with the department's calibration standards.
- 5. Training requirements for automotive repair personnel using emissions measuring equipment whose calibration accuracy has been compared with the department's calibration standards.
- 6. Any other rule which may be required to accomplish the provisions of this article.
- K. The director shall, after consultation with automobile manufacturers and the vehicle service and repair industry, establish by rule a definition of "low emissions tune-up" for motor vehicles subject to inspection under this article. The definition shall specify repair procedures which, when implemented, will reduce vehicle emissions.
- L. The director shall adopt rules which specify that the estimated retail cost of all recommended maintenance and repairs shall not exceed the amounts prescribed in this subsection, except that if a vehicle fails a tampering inspection there is no limit on the cost of recommended maintenance and repairs. The director shall issue a certificate of waiver for a vehicle which has failed reinspection, if the director has determined that all recommended maintenance and repairs have been performed. If, after reinspection, the director has determined that the vehicle is in compliance with minimum emissions standards or that all recommended maintenance and repairs for compliance with minimum emissions standards have been performed, but that tampering discovered at a tampering inspection has not been repaired, the director may issue a certificate of waiver if the owner of the vehicle provides to the director a written statement from an automobile parts or repair business that an emissions control device which is necessary to repair the tampering is not available and cannot be obtained from any usual source of supply before the vehicle's current registration expires. Rules adopted by the director for the purpose of establishing the estimated retail

- 38 -

cost of all recommended maintenance and repairs pursuant to this subsection shall specify that:

- 1. In area A the cost shall not exceed:
- (a) Five hundred dollars for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
- (b) Five hundred dollars for a diesel powered vehicle with tandem axles.
- (c) For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
- (i) Two hundred dollars for such a vehicle manufactured in or before the 1974 model year.
- (ii) Three hundred dollars for such a vehicle manufactured in the 1975 through 1979 model years.
- (iii) Four hundred fifty dollars for such a vehicle manufactured in or after the 1980 model year.
 - 2. In area B the cost shall not exceed:
- (a) Three hundred dollars for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
- (b) Three hundred dollars for a diesel powered vehicle with tandem axles.
- 3. For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
- (a) Fifty dollars for such a vehicle manufactured in or before the 1974 model year.
- (b) Two hundred dollars for such a vehicle manufactured in the 1975 through 1979 model years.
- (c) Three hundred dollars for such a vehicle manufactured in or after the 1980 model year.
- M. Each person whose vehicle has failed an emissions inspection shall be provided a list of those general recommended tune-up procedures for vehicles which are designed to reduce vehicle emissions levels. The list shall include the following notice: "This test is the result of federal law. You may wish to contact your representative in the United States Congress."
- N. Notwithstanding any other provisions of this article, the director may adopt rules allowing exemptions from the requirement that all vehicles must meet the minimum standards for registration or reregistration.
- 0. The director of environmental quality shall establish, in cooperation with the assistant director for the motor vehicle division of the department of transportation:
- 1. An adequate method for identifying bona fide residents residing outside of area A or area B to ensure that such residents are exempt from compliance with the inspection program established by this article and rules adopted under this article.

- 39 -

39.

- 2. A written notice that shall accompany the vehicle registration application forms that are sent to vehicle owners pursuant to section 28-2151 and that shall accompany or be included as part of the vehicle emissions test results that are provided to vehicle owners at the time of the vehicle emissions test. This written notice shall describe at least the following:
- (a) The restriction of the waiver program to one time per vehicle and a brief description of the implications of this limit.
- (b) The availability and a brief description of the vehicle repair and retrofit program established pursuant to section 49-474.03.
- (c) Notice that many vehicles carry extended warranties for vehicle emissions systems, and those warranties are described in the vehicle's owner's manual or other literature.
- (d) A description of the catalytic converter replacement program established pursuant to section 49-474.03.
- P. Notwithstanding any other law, if area A or area B is reclassified as an attainment area, emissions testing conducted pursuant to this article shall continue for vehicles registered inside that reclassified area, vehicles owned by a person who is subject to section 15-1444 or 15-1627 and vehicles registered outside of that reclassified area but used to commute to the driver's principal place of employment located within that reclassified area.
- Q. A fleet operator who is issued a permit pursuant to section 49-546 may electronically transmit emissions inspection data to the department of transportation pursuant to rules adopted by the director of the department of transportation in consultation with the director of environmental quality.
- R. The director shall prohibit a certificate of waiver pursuant to subsection L of this section for any vehicle which has failed inspection in area A due to the catalytic converter system.
- S. The director shall establish provisions for rapid testing of certain vehicles and to allow fleet operators, singly or in combination, to contract directly for vehicle emissions testing.
- T. Each vehicle emissions control station in area A shall have a sign posted to be visible to persons who are having their vehicles tested. This sign shall state that enhanced testing procedures are a direct result of federal law.
- U. The initial adoption of rules pursuant to this section shall be deemed emergency rules pursuant to section 41-1026.
- V. The director of environmental quality and the director of the department of transportation shall implement a system to exchange information relating to the waiver program, including information relating to vehicle emissions test results and vehicle registration information.
- W. Any person who sells a vehicle that has been issued a certificate of waiver pursuant to this section after January 1, 1997 and who knows that a certificate of waiver has been issued after January 1, 1997 for that vehicle

- 40 -

 shall disclose to the buyer before completion of the sale that a certificate of waiver has been issued for that vehicle.

- X. Vehicles that fail the emissions test at emission levels higher than twice the standard established for that vehicle class by the department pursuant to section 49-447 are not eligible for a certificate of waiver pursuant to this section unless the vehicle is repaired sufficiently to achieve an emissions level below twice the standard for that class of vehicle.
- Y. If an insurer notifies the department of transportation of the cancellation or nonrenewal of collectible vehicle or classic automobile insurance coverage for a collectible vehicle, the department of transportation shall cancel the registration of the vehicle and the vehicle's exemption from emissions testing pursuant to this section unless evidence of coverage is presented to the department of transportation within sixty days.
- Z. IN ADDITION TO AN EMISSIONS INSPECTION, A VEHICLE IS SUBJECT TO A LIQUID FUEL LEAK INSPECTION ON AT LEAST A BIENNIAL BASIS IF THE VEHICLE WAS MANUFACTURED AFTER THE 1974 MODEL YEAR AND IS NOT A DIESEL VEHICLE. THE DIRECTOR SHALL ADOPT RULES PRESCRIBING PROCEDURES AND STANDARDS FOR THE LIQUID FUEL LEAK INSPECTION.
- \overline{Z} . AA. For the purposes of this section, "collectible vehicle" means a vehicle that complies with both of the following:
 - 1. Either:
- (a) Bears a model year date of original manufacture that is at least fifteen years old.
- (b) Is of unique or rare design, of limited production and an object of curiosity.
 - 2. Meets both of the following criteria:
- (a) Is maintained primarily for use in car club activities, exhibitions, parades or other functions of public interest or for a private collection and is used only infrequently for other purposes.
- (b) Has a collectible vehicle or classic automobile insurance coverage that restricts the collectible vehicle mileage or use, or both, and requires the owner to have another vehicle for personal use.

Sec. 20. <u>Interim rule making; publication</u>

Notwithstanding title 41, chapter 6, article 3, Arizona Revised Statutes, the best management practices committee for regulated agricultural activities established under section 49-457, Arizona Revised Statutes, shall adopt the rules required by section 49-457, Arizona Revised Statutes, as amended by this act, as interim rules with an immediate effective date in compliance with section 41-1032, Arizona Revised Statutes, in order to comply with the December 31, 2007 deadline imposed by the United States environmental protection agency for failure to attain the national ambient air quality standard for PM-10 on or before December 31, 2006. The rules shall have an immediate effective date. Interim rules are exempt from title 41, chapter 6, article 3, Arizona Revised Statutes, except that the committee

- 41 -

shall submit the rules for publication and the secretary of state shall publish the rules in the Arizona administrative register.

Sec. 21. <u>Construction contracts with public entities:</u> definition

- A. If this state or an agency or political subdivision of this state is party to a construction contract executed before enactment of this act, the state, agency or political subdivision may agree to a contract amendment to provide for supplemental payments to reimburse the contractor for costs incurred solely and directly as a result of new dust control requirements imposed under this act if the following conditions are satisfied:
- 1. The measures taken to comply with the new dust control requirements were necessary and appropriate.
- 2. The measures taken to comply with the new dust control requirements were not necessary or appropriate to comply with dust control requirements or any other legal or contractual requirements in existence before enactment of this act.
- 3. The contractor provides the state, agency or political subdivision with complete documentation for the costs for which supplemental payment is requested.
- 4. The contractor did not expressly or impliedly assume the risk that additional costs would be incurred as a result of changes in dust control requirements.
- B. Any invitation to bid or request for proposals issued by this state or an agency or political subdivision of this state for a construction project in area A as defined in section 49-541, Arizona Revised Statutes, shall require that the offer address compliance with all dust control requirements applicable to the project.
- C. For the purposes of this section, "political subdivision" means an entity supported in whole or in part by tax revenues.

Sec. 22. <u>Delayed repeal</u>

Section 21 of this act, relating to public contracts and dust control requirements, is repealed from and after September 30, 2009.

Sec. 23. <u>City and county particulate enforcement: report: joint legislative budget committee</u>

A county and any city or town that is located in an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area shall submit reports on particulate enforcement to the joint legislative budget committee on June 1 and December 1 in 2008 and 2009. The reports shall include the following information for each county, city and town:

- 1. The number of notices of violation issued, fines or penalties assessed or other sanctions imposed for particulate violations.
- 2. The number of inspectors or other enforcement personnel employed for purposes of enforcing statutes, rules or ordinances related to particulates.

- 42 -

- 3. The number of miles of streets, roads, alleys, shoulders and vacant areas paved or otherwise stabilized.
- 4. Any other information relevant to enforcement of particulate measures prescribed by this act.

Sec. 24. <u>State air quality study committee; members; duties; report</u>

- A. The state air quality study committee is established consisting of the following members:
- 1. Five members of the senate who are appointed by the president of the senate, not more than three of whom are members of the same political party. The president of the senate shall designate one of these members to serve as cochairperson of the committee.
- 2. Five members of the house of representatives who are appointed by the speaker of the house of representatives, not more than three of whom are members of the same political party. The speaker of the house of representatives shall designate one of these members to serve as cochairperson of the committee.
- B. The purpose of the committee is to examine and make recommendations for current and future compliance with primary national ambient air quality standards in this state.
 - C. The committee shall:
- 1. Review the implementation and enforcement of the particulate matter and ozone control measures for areas A and C prescribed in this act and adopted by the Maricopa association of governments and Maricopa county for area A. On request of the committee, the Maricopa association of governments shall provide a summary of the five per cent PM-10 reduction plan submitted to the United States environmental protection agency on or before December 31, 2007.
- 2. Examine the need to adopt additional particulate matter and ozone control measures in areas A and C to ensure compliance with national ambient air quality standards in areas A and C and any other federal requirements.
- 3. Review the different types of motor fuel standards required by law in this state.
- 4. Examine the need to adjust the different types of motor fuel standards in this state based on the following criteria:
- (a) Current and future compliance with primary national ambient air quality standards to protect public health.
 - (b) Effect on supply of motor fuel into this state.
- (c) Effect on the price and costs of production and delivery of motor fuel to consumers.
- (d) Cost-effectiveness of motor fuel standard changes in comparison with other types of control measures.
 - (e) Federal regulations on locally-specific motor fuel types.
- 5. Review the vehicle emission inspection requirements in this state and examine the applicability of these requirements.

- 43 -

- 6. Review and examine other air quality control measures, as the committee deems necessary, to ensure current and future compliance with primary national ambient air quality standards to protect public health, including vapor recovery system technologies and requirements.
- 7. Make any recommendations on review and examination of the subjects prescribed in paragraphs 1 through 6 of this subsection.
- 8. Submit a report of its findings and recommendations to the governor, the president of the senate and the speaker of the house of representatives on or before December 31, 2009 and submit copies of these reports to the secretary of state and the director of the Arizona state library, archives and public records.

Sec. 25. <u>Department of environmental quality: motor fuels</u> emissions studies: recommendations

- A. The department of environmental quality shall evaluate the coordinating research council study E-74b. The department of environmental quality shall receive comments evaluating the coordinating research council study E-74b from the department of weights and measures, any trade organizations representing automobile manufacturers, ethanol producers and marketers, petroleum refiners, suppliers, distributors and marketers, and other interested parties.
- B. The department of environmental quality and each of the entities submitting comments pursuant to subsection A of this section shall consider providing additional research and cooperating to design and conduct any additional studies.
- C. If funding is made available, and if the department of environmental quality in consultation with each of the entities submitting comments pursuant to subsection A of this section determines additional research is necessary, the department of environmental quality, in consultation with the department of weights and measures, shall develop and implement research that would complement and incorporate the coordinating research council study E-74b regarding Reid vapor pressure and oxygen content effects on emissions of 1994 model year and newer light duty vehicles. The research:
- 1. May include federal test procedure testing of a sufficient number and variety of federal tier 1 and tier 2 standard vehicles to be representative of the current in-use light duty vehicle fleet.
- 2. May include an emissions and air quality assessment of the impacts of changing the area A wintertime Reid vapor pressure standard to comply with American society for testing and materials Reid vapor pressure standards applicable to area A, including the wintertime Reid vapor pressure waiver for ethanol blends allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.
- 3. May include an assessment of the emissions and air quality impacts of requiring ten per cent ethanol in tandem with any change in Reid vapor pressure, including an assessment of Reid vapor pressure being allowed to

- 44 -

rise with no ethanol content and an assessment of fuel containing greater than twenty per cent ethanol content.

- 4. Notwithstanding the receipt of the coordinating research council study E-74b, shall include:
- (a) An assessment of costs of production and delivery of gasoline and ethanol and an assessment of gasoline and ethanol supplies and logistics.
- (b) A statewide assessment of increasing flexibility under state standards for blending ethanol to include impacts on the environment, vehicle performance and costs to consumers.
- D. On or before February 15, 2008, the department of environmental quality shall submit its evaluation of the coordinating research council study E-74b and any comments received pursuant to subsection A of this section to the governor, the president of the senate and the speaker of the house of representatives for referral to the appropriate standing committees of the senate and the house of representatives. The department shall submit copies of the evaluation and comments to the secretary of state and the director of the Arizona state library, archives and public records.
- E. On or before September 1, 2008, the department of environmental quality shall submit a report of all of the findings and recommendations made pursuant to this section to the state air quality study committee established by this act and shall submit copies of these reports to the secretary of state and the director of the Arizona state library, archives and public records.

Sec. 26. <u>Delayed repeal</u>

Section 24 of this act, relating to the state air quality study committee, and section 25 of this act, relating to motor fuels emissions studies, are repealed from and after December 31, 2009.

Sec. 27. <u>Conditional enactment</u>

- A. Section 41-2083, Arizona Revised Statutes, as amended by Laws 2007, chapter 145, section 2 and this act, is effective as prescribed in Laws 2005, chapter 104, section 7, subsection A, as amended by Laws 2007, chapter 145, section 4.
- B. Section 41-2124.01, Arizona Revised Statutes, as amended by section 13 of this act, is not effective unless, on or before November 1, 2009, the conditions specified in Laws 2005, chapter 104, section 7, subsection B, as amended by Laws 2007, chapter 145, section 4, are satisfied.

- 45 -

SB 1552

air quality program Sponsors: Senator Allen, Huppenthal

DPA Committee on Environment

DPA Caucus and COW

As Transmitted to the Governor

SB 1552 makes various changes to statutes pertaining to air quality control.

History

The Clean Air Act (CAA) was established in 1990 to address the nation's problems with air pollutants. Through the CAA, the Environmental Protection Agency (EPA) set primary and secondary standards for the amounts of any pollutant that can be in the air anywhere in the United States. Currently, there are six criteria pollutants included in the National Ambient Air Quality Standards (NAAQS): carbon monoxide (CO), nitrogen dioxide (NOx), particulate matter (PM-10 and PM-2.5), ozone, sulfur dioxide (SO₂), and lead (PB).

On December 31, 2006, a large portion of Maricopa County and the Apache Junction portion of Area A failed to reach attainment of the federal PM-10 health standards. The Maricopa Association of Governments (MAG), which is the designated regional agency for air quality, is required to submit a State Implementation Plan (SIP) to the EPA by December 31, 2007 that includes measures to reduce PM-10 emissions over the next three years. As of May 23, 2007, MAG has suggested 55 measures to reduce PM-10 emissions. Potential implementing entities for the measures include state, local and county governments and the private sector. Some of the state measures include a Dust-Free Certification program; paving or stabilizing dirt roads, alleys and shoulders; and banning or discouraging use of leaf blowers on High Pollution Advisory Days (HPA).

Additionally, on April 15, 2004 the EPA designated Area A as nonattainment for the NAAQS for ozone; the Maricopa County nonattainment area is classified as basic and is required to reach attainment of the standard at all ozone monitors by June 15, 2009. MAG is also required to submit a SIP to the EPA by June 15, 2007 that demonstrates an approach to reducing the ozone level in the air and emissions of ozone precursors.

The Arizona Department of Environmental Quality estimates that the provisions contained in SB 1552 will reduce PM-10 emissions by 10,425 tons per year, VOC emissions by 12,243 tons per year and NOx by 5,529 tons per year. According to MAG, the total reduction of PM-10 needed for attainment is 13,782 tons.

Area A – means greater Phoenix metropolitan area, a portion of Apache Junction and a portion of Yavapai County.

A county with a population of two million or more persons or any portion of a county within an area designated by the EPA as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area - Currently, this description means Maricopa County in its entirety and the Apache Junction portion of Area A.

Provisions

Unpaved Roads

- Requires a city or town in Area A and a county which contains any portion of Area A to develop and implement plans to stabilize unpaved roads, alleys and unpaved shoulders on targeted arterials by January 1, 2008.
- Specifies that the plans of a county which contains any portion of Area A must address the performance goals; the criteria for targeting the roads, alleys and shoulders; a schedule for implementation; funding options; and reporting requirements.

Format Document Page 2 of 7

• Requires a city or town in Area A and a county which contains any portion of Area A to give priority to:

- 1. Unpaved roads with more than 100 average daily trips; and
- 2. Unpaved shoulders on arterial roads where vehicle use is evident or anticipated due to projected traffic volume.
- Allows counties to use petroleum based or non-petroleum based products in the maintenance and repair of unpaved roads, alleys and shoulders in any county where the control officer certifies that the emissions from such roads, alleys or shoulders may endanger compliance with the NAAQS.

Parking Areas

- Requires that no later than March 31, 2008, a city and town in Area A, Maricopa County and the Apache Junction portion of Area A, adopt or amend codes or ordinances and, no later than October 1, 2008, commence enforcement of those codes or ordinances as necessary to require dustproof paving methods for the following:
 - 1. Parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units; and
 - 2. Parking, maneuvering, ingress and egress areas that are 3000 square feet or more in size at residential buildings with four or fewer units.

Vacant Lots

- Requires that no later than March 31, 2008, a city and town in Area A and a county which contains any portion of Area A, adopt or amend codes or ordinances as necessary to restrict vehicle parking and use on unpaved or unstabilized vacant lots.
- Requires that no later than March 31, 2008, Maricopa County and the Apache Junction portion of Area A, adopt rule provisions and enforce those rule provisions pertaining to the stabilization of disturbed surfaces of vacant lots no later than October 1, 2008.
- Stipulates that the county rules must include reasonable written notice to the property owner that the unpaved disturbed surface of a vacant lot is required to be stabilized and must also grant the county authority to enter the lot to stabilize the disturbed surface at the expense of the owner if it has not been stabilized by the day set for compliance.
- Specifies that vacant lots do not include any site that has been issued a county dust control permit.
- Defines disturbed surface.

Leaf Blowers

- Stipulates that beginning on March 31, 2008, employees or contractors of a city or town in Area A or a county which contains any portion of Area A (beginning on the general effective date) are prohibited from operating leaf blowers, except in vacuum mode, on high pollution advisory days.
- Prohibits employees or contractors of a city or town in Area A or a county which contains any portion of Area A from blowing landscape debris into public roadways at any time.
- Exempts any site that has been issued a county dust control permit.
- Requires a city and town in Area A to adopt, implement and enforce an ordinance by March 31, 2008 that bans the blowing of landscape debris into public roadways at any time by any person.
- Prohibits any person from blowing landscape debris into public roadways in Maricopa County and the Apache Junction portion of Area A after March 31, 2008.
- Requires that by March 31, 2008, a county that contains any portion of Area A, Maricopa County and the Apache Junction portion of Area A, to adopt, implement and enforce an ordinance that prohibits the operation of leaf blowers, except on surfaces that have been stabilized.

In Maricopa County and the Apache Junction portion of Area A:

• Requires any person operating a leaf blower for remuneration to successfully complete training approved by

Format Document Page 3 of 7

the Arizona Department of Environmental Quality (ADEQ) on how to operate a leaf blower in a manner designed to minimize the generation of fugitive dust emissions at least every three years.

- Specifies that any person required to complete training must complete the initial training no later than December 31, 2008.
- Requires ADEQ to produce printed materials for persons who sell or rent equipment used for blowing landscape debris for the purpose of educating and informing the user of the equipment on the safe and efficient use of the equipment.
- Requires any person who rents or sells equipment that is used for blowing landscape debris to provide the buyer or renter of the equipment with the materials approved by ADEQ.

Street Sweepers

• Requires new or renewed contracts for street sweeping on city streets in a city or town in Area A and in a county which contains any portion of Area A, no later than March 31, 2008, to specify that the street sweepers meet the South Coast Air Quality Management rule pertaining to pick-up efficiency and PM-10 emissions.

Off-Highway Vehicles

- Requires a city and town in Area A to adopt, implement and enforce an ordinance that prohibits the operation of any vehicle, including an off-highway vehicle (OHV), an all-terrain vehicle (ATV) or an off-road recreation motor vehicle (ORRMV), on an unpaved surface that is not a public or private road, street or lawful easement and that is closed by the landowner.
- Prohibits a person from operating an OHV, an ATV or an ORRMV on an unpaved surface during any HPA by ADEQ for particulate matter.
- Exempts the operation of vehicles used in the normal course of business or the normal course of government operations.
- Clarifies that this does not prohibit or preempt the enforcement of any similar ordinance that is adopted by a city or town in Area A before March 31, 2008 for purposes of dust abatement.
- Prescribes a Class 3 misdemeanor for a violation of a city or town ordinance prohibiting OHVs on unpaved surfaces.
- Allows a judge to order a person to perform at least 8-24 hours of community restitution or to complete an approved OHV safety course, or both, in lieu of a fine.

The following provisions apply in Area A:

- Prohibits a person from operating an OHV, an ATV or an ORRMV, on an unpaved surface that is not a public or private road, street or lawful easement during any high pollution advisory day forecast by ADEQ.
- Provides exemptions for:
 - 1. An event that is intended for an OHV, an ATV or an ORRMV and that is endorsed, authorized, permitted or sponsored by a public agency, occurs on a designated route or area and includes dust abatement measures at all staging areas, parking areas and entrances;
 - 2. An event that occurs at a facility where an admission or use fee is charged and includes dust abatement measures;
 - 3. A closed course that is maintained with dust abatement measures;
 - 4. An OHV, an ATV or an ORRMV used in the normal course of business or government operations; or
 - 5. Golf carts that are used as part of a private or public golf course.
- Allows the control officer or other enforcement officer to issue citations and prescribes the following penalties:
 - 1. A warning for the first violation;
 - 2. A civil penalty of \$50 for the second violation;
 - 3. A civil penalty of \$100 for the third violation; and

Format Document Page 4 of 7

4. A civil penalty of \$250 for the fourth or any subsequent violation.

In Maricopa County and the Apache Junction portion of Area A:

• Requires ADEQ to produce printed materials, make the material available on ADEQ's website and distribute the materials to persons who sell or rent OHVs, ATVs or ORRMVs.

- Specifies that the materials must be designed to educate and inform the user of the vehicle on methods for reducing the generation of dust and dust control ordinances and restrictions.
- Requires any person who rents or sells OHVs, ATVs or ORRMVs in the normal course of business, other than golf carts, to provide the buyer or renter of the vehicle printed materials that are approved by ADEQ.

Agricultural Best Management Practices

- Increases the number of agricultural Best Management Practices (BMPs) from one to two and requires that the BMPs be used to demonstrate compliance with the general permit no later than December 31, 2007.
- Requires the Director of the Agricultural Best Management Practices Committee (Committee) to submit the rule containing the two BMPs to the EPA no later than December 31, 2007.
- Specifies that the Committee adopt the rules as interim rules in order to comply with the December 2007 deadline imposed by the EPA for PM-10 compliance.
- Defines regulated area for the purposes of BMPs as Maricopa County.

Dust Control Training and Coordinators

The following provisions apply in Maricopa County and the Apache Junction portion of Area A:

- Requires that no later than January 1, 2008, the control officer develop and implement basic and comprehensive training programs for the suppression of PM-10 emissions from sources that are subject to a county dust control permit.
- Allows the county to adopt rules prescribing standards for training.
- Requires that by December 31, 2008 and at least once every three years thereafter, the following persons successfully complete *basic* dust control training:
 - 1. The site superintendent or other designated on-site representative of a county dust control permit holder if the site has *more than one acre* of disturbed surface; and
 - 2. Water truck and water pull drivers.
- Specifies that the requirements of site superintendents, water truck and water pull drivers do not apply to a permittee that has a single permit for multiple noncontiguous sites that are *one acre or less*.
- Specifies that no later than June 30, 2008, a site subject to a county dust control permit of *five acres or more* of disturbed surface area must have at least one trained dust control coordinator (coordinator) on site at all times during primary dust generating operations.
- Grants the coordinator full authority to ensure that dust control measures are implemented on site, including
 conducting inspections, deployment of dust suppression resources and modification or shutdown of activities as
 needed to control dust.
- Stipulates that the coordinator must be responsible for managing dust prevention and dust control on the site.
- Requires that at least once every three years, the coordinator successfully complete a *comprehensive* dust control class conducted or approved by the appropriate control officer and that the coordinator have a valid coordinator certification on site.
- States that the requirement to have a coordinator for any site *five acres or more* and the ability for the coordinator to have full authority lapse if all of the following apply:

Format Document Page 5 of 7

- 1. The area of disturbed surface area is less than five acres;
- 2. The previously disturbed areas are stabilized in accordance with the requirements of applicable rules; and
- 3. The permittee provides notice of the acreage stabilized to the control officer.
- Stipulates that a permittee that has a single permit for multiple noncontiguous sites must have on sites *greater* than one acre of disturbed surface area at least one designated coordinator.

The following provisions apply in a designated PM-10 nonattainment area:

- Requires a subcontractor engaged in dust generating operations at a site that is subject to a county dust control permit to register with the control officer.
- Allows the control officer to establish and assess a fee for subcontractor registration.
- Requires that the subcontractor have the registration number readily accessible on site.

Voluntary Diesel Retrofit Program

- Requires a county with a population of more than 400,000 persons to operate and administer a voluntary diesel emissions retrofit program for the purpose of reducing particulate emissions from diesel equipment.
- Stipulates that the program must allow for extended hours of operation by a modification to an existing permit or provision in a new permit.
- Requires that the diesel retrofit demonstrate at least a 35 percent reduction in particulate pollution with no increase in the generation or emission of other regulated pollutants.

Covered Loads

- Exempts minor pieces of agricultural materials such as leaves and stems from agricultural loads and vehicles that drop sufficient sand for the purpose of securing traction or sprinkle water or another substance on a roadway to clean or maintain the roadway.
- Adds that the covered load requirements are for highway safety or air pollution prevention.

Open and Unlawful Burning

- Requires a county which contains any part of Area A, on or before October 31, 2007, to prescribe a no burn restriction for any HPA for particulate matter.
- Stipulates that a fourth or subsequent violation of the no burn restriction is a civil penalty of \$250.
- Prohibits any open outdoor fire in Area A, from May 1 through September 30 each year.
- Removes fires for recreational purposes from the exemptions of unlawful burning.
- Requires a county with a population in excess of 1.2 million persons to prohibit by ordinance the use of wood burning chimineas, outdoor fire pits and similar outdoor fires on those days for which the county has issued a No Burn Day Restriction.
- Increases the fine for open burning from \$25 to \$500 for the first violation.

Vehicle Emissions

- Adds the Liquid Fuel Leak Inspection to the Vehicle Emissions Inspection Program.
- Requires the Director of ADEQ to adopt rules prescribing procedures and standards for the Liquid Fuel Leak Inspection.

Area C

- Establishes Area C in western Pinal County and requires Area C to use clean burning gasoline (CBG) from May 31st to September 30th.
- Contains conditional enactments based on the EPA approving a revision to the SIP.

Format Document Page 6 of 7

Construction Contracts with Public Entities

Allows the state, an agency or political subdivision of this state that is party to a construction contract executed
prior to the enactment of these air quality control measures to agree to a contract amendment to provide for
supplement payments to reimburse the contractor for the costs incurred solely and directly as a result of new
dust control standards.

- Requires that any invitation to bid or request for proposals for a construction project in Area A issued by this state, an agency or political subdivision of this state, address compliance with all dust control requirements applicable to the project.
- Includes a delayed repeal date of September 30, 2009.

Dust-Free Developments Program

- Requires ADEQ to develop the Dust-Free Developments Program (Program).
- Requires that the Program include a voluntary certification process based on criteria developed by ADEQ.
- Stipulates that any person or entity may apply for certification under the Program, and if approved, may
 lawfully use a certification, seal, logo or other similar indicator established by ADEQ for promotional, civic,
 public relations or public involvement purposes.
- Stipulates that the Program does not include a specific expiration date.

Reporting Requirements

- Requires any city, town and county located in a PM-10 nonattainment area to submit reports on particulate enforcement to the Joint Legislative Budget Committee (JLBC) on June 1 and December 1 of 2008 and 2009.
- Specifies that the reports must include the following information:
 - 1. The number of notices of violation issued, fines or penalties assessed or other sanctions imposed for particulate violations.
 - 2. The number of inspectors or other enforcement personnel employed for purposes of enforcing statutes, rules or ordinances related to particulates.
 - 3. The number of miles of streets, roads, alleys, shoulders and vacant areas paved or otherwise stabilized.
 - 4. Any other information relevant to the enforcement of particulate measures.

State Air Quality Study Committee

- Creates the State Air Quality Study Committee consisting of 10 legislators and states that its purpose is to examine and make recommendations for current and future compliance with primary NAAQS.
- Outlines the duties of the State Air Quality Study Committee which include submitting a report to the Legislature.
- Contains a delayed repeal date from and after December 31, 2009.

Motor Fuels Emissions Studies

- Requires ADEQ to evaluate the Coordinating Research Council study E-74b and to receive comments from the
 Department of Weights and Measures, any trade organizations representing automobile manufacturing, ethanol
 producers and marketers, petroleum refiners, suppliers, distributors and marketers, and other interested parties.
- Stipulates that ADEQ must consider providing additional research and cooperating to design and conduct any additional studies.
- Specifies that if funding is made available and it is determined that additional research is necessary, ADEQ
 must work with the Department of Weights and Measures to develop and implement research that would
 complement and incorporate the Coordinating Research Council study E-74b regarding Reid vapor pressure and
 oxygen content effects on emissions.
- Stipulates that ADEQ must submit its evaluation of the Coordinating Research Council study E-74b to the

Format Document Page 7 of 7

Legislature by February 15, 2008.

• Requires that ADEQ submit a report of all of the findings and recommendations to the State Air Quality Study Committee by September 1, 2008.

Miscellaneous

- Adds that the work hours of municipal employees in a city or town with a population of 50,000 persons or more be adjusted in order to reduce ozone and particulate matter concentrations caused by vehicular travel.
- Stipulates that if the Director of ADEQ determines that progress or attainment will not be achieved in order to achieve or maintain NAAQS or other air quality standards applicable to ozone precursors, the county must adopt rules necessary to achieve progress or attainment.
- Requires emissions reductions for the 8-hour ozone standard be achieved by December 31, 2008.
- Makes technical and conforming changes.

	DOCUMENT FOOTER
Forty-eighth Legislature	
First Regular Session 2	June 27, 2007
	DOCUMENT FOOTER

GOVERNOR'S AGRICULTURAL BEST MANAGEMENT PRACTICES COMMITTEE

Overview of Agricultural Best Management Practices Committee Research and Recommendations for Agriculture's Portion for the Five Percent RFP Maricopa PM₁₀ State Implementation Plan

The Arizona Agricultural Best Management Practices Committee (Committee) was established by Arizona Revised Statutes §49-457 in 1998 to research and adopt best management practices (BMPs) for regulated agricultural activities. The BMPs are designed to reduce emissions of particulate matter of 10 microns or less (PM₁₀) in the Maricopa County Serious PM₁₀ nonattainment area. Periodically the Committee reexamines the BMPs to review effectiveness and modifies them, if necessary, or adopts new measures.

Due to continued exceedances of the PM_{10} standard in the Maricopa County nonattainment area, all contributing sources of PM_{10} , including agricultural activities, are required to reduce emission by a total of at least five percent per year until the air quality standard for PM_{10} is attained. The contribution from agricultural sources to the PM_{10} problem in Maricopa County was deemed approximately three percent. The Committee began meeting in 2006 to initiate discussions regarding various approaches to the five percent requirements. During this process the Committee held five meetings: April 17, 2006; and January 25, February 20, March 22, and September 25, 2007.

At the April 17, 2006, meeting, the Committee agreed to reconvene the Agricultural Best Management Practices Technical Workgroup (Workgroup) to review the efficacy of current BMPs for the Maricopa County PM₁₀ nonattainment area as well as conservation management practices (CMPs) from the San Joaquin Valley and Imperial Valley, California, programs. The Workgroup's review would facilitate future discussions by the Committee regarding possible changes or additions to the AgBMP program in Maricopa County. The Workgroup was also tasked with examining other program options outside of BMPs for the Committee's review.

The Workgroup held six meetings: June 8, June 27, August 15, October 11, and November 14, 2006; and February 6, 2007. During the meeting on August 15, 2006, the Workgroup invited representatives from San Joaquin Valley and Imperial Valley to present and discuss their CMP programs. The information presented allowed the Workgroup to review the CMPs and determine if they were applicable to the Maricopa County AgBMP Program. The Workgroup agreed to forward six practices to the Committee for review. These practices included: integrated pest management (IPM), precision farming, green chop, transgenic crops, transplanting, and less than ten vehicle trips per day. In addition to reviewing these practices for feasibility, Arizona Department of Environmental Quality (ADEQ) staff conducted a comparison analysis of BMPs to determine potential emission reductions.

At two of the Workgroup meetings, the Maricopa Association of Governments (MAG) presented several other potential control measures to the Workgroup for consideration to reduce PM_{10} emissions from agricultural activities. These included calculating the emissions impacts from the elimination of plow-downs after the pink boll worm is eradicated, staggering plow-downs, cessation of tilling on high wind days, calculating the emissions impacts from the reduction of agricultural land once it converts to development, and the application of BMPs to Area A, a

planning area larger than the nonattainment area. The Workgroup decided to discuss the impact of the elimination the plow-down once the pink boll worm is eradicated in the future, because the pink boll worm has not yet been eradicated and there are additional regulatory requirements to maintain the plow-down other than the pink boll worm eradication. Cessation of tilling on high wind days was modified to account for stagnant air conditions that can occur during the winter months in the Valley. The Workgroup determined that the main issue regarding calculating emissions reductions from the loss of agricultural land once it converts to development was a question of land ownership and therefore this suggestion was not feasible at this time. The application of BMPs to Area A was suggested as a result of exceedances of PM₁₀ emissions at the monitor located in Buckeye. This monitor is located outside the PM₁₀ nonattainment area but within Area A. This suggestion was changed to require the use of BMPs in the Maricopa County portion of Area A and to account for legislative changes.

Additional measures suggested to reduce emissions from agricultural activities included the elimination of night farming, enhanced enforcement, submission of BMP plans, special permits for tracking emissions reductions, stabilization of agricultural aprons and of farm roads, implementation of agricultural BMPs on Indian land, and restriction of public access to unpaved farm roads and land to prevent cut through traffic. The Workgroup determined that the elimination of night farming was not feasible because many farming activities occur only at night, and some farmers must operate at night. The measure of enhanced enforcement entailed submission of a BMP plan and granting a conventional operating permit. The Workgroup determined that since farmers already receive a general permit and the current compliance program functions well, this measure would not be forwarded at this time. The Workgroup decided that stabilization of aprons and farm roads was not feasible since these are commonly rights-of-way and farmers have no jurisdiction on these areas. Implementing BMPs on Indian land was not applicable because the state has no authority on Tribal land. The measure regarding restriction of public access to unpaved farm roads was not forwarded because of liability issues.

The Committee met January 25, 2007, to review the Workgroup's recommended additional BMPs for consideration as well as review the suggestions presented by MAG. After reviewing ADEQ's comparison analysis of the estimated emissions reductions from the six additional BMPs, the Committee selected those practices that were feasible and applicable for farmers in Maricopa County. Four BMPs were adopted during this meeting: IPM, precision farming, green chop, and transgenic crops. The Committee requested that the Workgroup review additional analysis from ADEQ regarding PM₁₀ concentrations during stagnant air conditions prior to further discussion or action on BMPs related to cessation of tilling.

ADEQ staff analyzed hourly PM₁₀ data during stagnant air days and presented possible options for timing of agricultural tilling. The analysis showed that on stagnant air days, PM₁₀ concentrations start to rise after sundown, are relatively constant until about 4:00 a.m., and reach a maximum peak around 8:00 a.m. Several options for a time frame included: reduce tilling on weekdays (tilling would occur on weekends), limit tilling between 6:00 p.m. and 9:00 a.m., or limit tilling between 6:00 p.m. and 7:00 a.m. In order to maintain economic feasibility of the BMP and contribute to reductions of PM₁₀ concentrations, the Committee agreed that establishing a time frame of 2:00 a.m. to 8:00 a.m. for the cessation of tillage operations was appropriate. During the February 20, 2007 meeting, the Committee adopted the cessation of

night tilling from 2:00 a.m. to 8:00 a.m. during stagnant air conditions on high pollution advisory days as the fifth additional BMP.

With assistance from ADEQ, the Committee drafted and voted on an interim rule to account for the additional BMPs and legislative actions. The Arizona Legislature also revised Arizona Revised Statute (*A.R.S.*) 49-457 in Section 14 of Senate Bill 1552, first regular session 2007. The statute was revised to require two BMPs to be implemented agricultural management category beginning December 31, 2007, and revised the definition of the regulated area for BMPs to include all of Area A (as defined in A.R.S §49-541). The interim rule will be submitted to the Secretary of State for publication in the *Arizona Administrative Register*. The rule will become effective 60 days after publication. On September 28, 2007, the Committee submitted the interim rule to MAG for inclusion in the Five Percent RFP Maricopa PM₁₀ State Implementation Plan.

During the March 22, 2007, meeting the Committee determined that the BMP booklet should be revised to account for changes and additional BMPs. A focus group was formed with representatives from ADEQ, the Department of Agriculture (ADA), Arizona Cotton Growers Association (ACGA), Maricopa County Farm Bureau (MCFB), and Committee members. The revised booklet reflects regulatory changes as well as the newly adopted BMPs. The booklet will be distributed using producers' information provided to ADA. Informational meetings will be conducted by MCFB and ACGA beginning late 2007 and early 2008.

GOVERNOR'S AGRICULTURAL BMP COMMITTEE

1110 West Washington Street Phoenix, Arizona 85007 602-771-2372 Fax: 602-771-2366

September 26, 2007

Dennis Smith, Executive Director Maricopa Association of Governments 302 N. 1st Avenue, Suite 300 Phoenix, AZ 85003

SUBJECT: Interim Rule for Agricultural Best Management Practices

Dear Mr. Smith:

The Governor's Agricultural Best Management Practices (AgBMP) Committee respectfully submits the attached interim rule for inclusion in the Five Percent RFP Maricopa PM₁₀ State Implementation Plan (SIP). The interim rule revises R18-2-610, Definitions for R18-2-611, and R18-2-611, Agricultural PM₁₀ General Permit; Maricopa PM₁₀ Nonattainment Area.

The AgBMP Committee reconvened the AgBMP Technical Workgroup to review the current program as well as any additional information related to reducing PM_{10} emissions resulting from agricultural activities. The Workgroup recommended to the Committee the addition of five BMPs to the program, the requirement of two BMPs rather than one BMP per agricultural category, and the extension of the program to Maricopa County portions of Area A. The Committee is of the opinion these actions will help reduce PM_{10} emissions from agricultural activities in the Maricopa PM_{10} nonattainment area.

If you have any questions please contact Nancy Wrona, Director, Air Quality Division, Arizona Department of Environmental Quality at (602) 771-2308.

Sincerely,

Dan Thelander, Chairman AgBMP Committee

TITLE 18, ENVIRONMENTAL QUALITY CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

Table of Contents

R18-2-610.	Definitions for R18-2-611	Amend
R18-2-611.	Agricultural PM ₁₀ General Permit; Maricopa PM10	
	Nonattainment Area and Maricopa County Portion of Area A	Amend

R18-2-610. Definitions for R18-2-611

The definitions in Article 1 of this Chapter and the following definitions apply to R18-2-611:

- 1. "Access restriction" means restricting or eliminating public access to noncropland with signs or physical obstruction.
- 2. "Aggregate cover" means gravel, concrete, recycled road base, caliche, or other similar material applied to noncropland.
- 3. "Area A" means the area delineated according to A.R.S. § 49-541(1).
- 34. "Artificial wind barrier" means a physical barrier to the wind.
- 4<u>5</u>. "Best management practice" means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM₁₀ emissions from a regulated agricultural activity.
- 56. "Chemical irrigation" means applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system.
- 7. "Cessation of Night Tilling" means the discontinuation of night tilling on high pollution advisory days during stagnant air conditions.
- 68. "Combining tractor operations" means performing two or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
- 79. "Commercial farm" means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Maricopa PM₁₀ nonattainment area and Maricopa County portion of Area A.
- 810. "Commercial farmer" means an individual, entity, or joint operation in general control of a commercial farm.
- 911. "Committee" means the Governor's Agricultural Best Management Practices Committee.
- 1012. "Cover crop" means plants or a green manure crop grown for seasonal soil protection or soil improvement.
- 4413. "Critical area planting" means using trees, shrubs, vines, grasses, or other vegetative cover on noncropland.
- 1214. "Cropland" means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence;

- b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
- c. Is a turn-row.
- 1315. "Cross-wind ridges" means soil ridges formed by a tillage operation.
- 14<u>16</u>. "Cross-wind strip-cropping" means planting strips of alternating crops within the same field.
- 1517. "Cross-wind vegetative strips" means herbaceous cover established in one or more strips within the same field.
- 1618. "Equipment modification" means modifying agricultural equipment to prevent or reduce particulate matter generation from cropland.
- 19. "Forage Crop" means a product grown for consumption by any domestic animal.
- 20. "Genetically Modified" means a living organism whose genetic material has been altered, changing one or more of its characteristics.
- 21. "GMO: Genetically Modified Organism" means a plant that has been altered by a genetic exchange with another organism.
- 22. "GPS: Global Position Satellite System" means using a satellite navigation system on farm equipment to calculate position in the field.
- 23. "Green Chop" means the harvesting of a forage crop without allowing it to dry in the field.
- 24. "High Pollution Advisory" means a public notification issued by the Department when the ambient concentrations of PM₁₀ may exceed the federal health standard.
- 25. "Integrated Pest Management" means the use of a combination of techniques including organic, conventional, and biological farming practices.
- 1726. "Limited activity during a high-wind event" means performing no tillage or soil preparation activity when the measured wind speed at 6 feet in height is more than 25 mph at the commercial farm site.
- 1827. "Manure application" means applying animal waste or biosolids to a soil surface.
- 1928. "Maricopa PM₁₀ nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
- 2029. "Mulching" means applying plant residue or other material that is not produced onsite to a soil surface.
- 2130. "Multi-year crop" means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.

- 2231. "Noncropland" means any commercial farm land that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a private farm road, ditch, ditch bank, equipment yard, storage yard, or well head.
- 32. "Night Tilling" means preparing the land for the raising of crops between the hours of 2:00 a.m. and 8:00 a.m.
- 33. "Organic Farming Practices" means using biological or non-chemical agricultural methods.
- 2334. "Permanent cover" means a perennial vegetative cover on cropland.
- 24<u>35</u>. "Planting based on soil moisture" means applying water to soil before performing planting operations.
- 36. "Precision Farming" means using GPS to precisely guide farm equipment in the field.
- 2537. "Reduce vehicle speed" means operating farm vehicles or farm equipment on unpaved private farm roads at speeds not to exceed 20 mph.
- 2638. "Reduced harvest activity" means reducing the number of harvest passes using a mechanized method to cut and remove crops from a field.
- 2739. "Reduced tillage system" means reducing the number of tillage operations used to produce a crop.
- 2840. "Regulated agricultural activity" means a commercial farming practice that may produce PM₁₀ within the Maricopa PM₁₀ nonattainment area and Maricopa County portion of Area A.
- 2941. "Residue management" means managing the amount and distribution of crop and other plant residues on a soil surface.
- 3042. "Sequential cropping" means growing crops in a sequence that minimizes the amount of time bare soil is exposed on a field.
- 3143. "Surface roughening" means manipulating a soil surface to produce or maintain clods.
- 44. "Stagnant Air Conditions" means a meteorological regime where warm air aloft overlies cooler air near the surface and little if any vertical mixing occurs.

- 3245. "Synthetic particulate suppressant" means a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, and polyacrylamide that is used to control particulate matter.
- 3346. "Tillage and harvest" means any mechanical practice that physically disturbs cropland or crops on a commercial farm.
- 34<u>47</u>. "Tillage based on soil moisture" means applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.
- 3548. "Timing of a tillage operation" means performing tillage operations at a time that will minimize the soil's susceptibility to generate PM_{10} .
- 3649. "Track-out control system" means a device to remove mud or soil from a vehicle before the vehicle enters a paved public road.
- 50. "Transgenic Crops" means the use of plants that are genetically modified.
- 3751. "Tree, shrub, or windbreak planting" means providing a woody vegetative barrier to the wind.
- 3852. "Watering" means applying water to noncropland.

R18-2-611. Agricultural PM₁₀ General Permit; Maricopa PM₁₀ Nonattainment Area <u>and Maricopa County Portion of Area A.</u>

- A. A commercial farmer shall comply with this Section by December 31, 2001 2007.
- **B.** A commercial farmer, who begins a regulated agricultural activity after December 31, 2000, shall comply with this Section within 18 months of beginning the regulated agricultural activity.
- C. A commercial farmer shall implement at least one <u>two</u> best management practice practices from each of the following categories:
 - 1. Tillage and harvest, subsection (E);
 - 2. Noncropland, subsection (F); and
 - 3. Cropland, subsection (G). A commercial farmer may implement more than one best management practice for one or more of the categories.
- D. A commercial farmer shall ensure that the implementation of each <u>all</u> selected best management <u>practices</u> does not violate any other local, state, or federal law.
- E. A commercial farmer shall implement at least one two of the following best management practices to reduce PM_{10} emissions during tillage and harvest activities:
 - 1. Chemical irrigation,

- 2. Combining tractor operations,
- 3. Equipment modification,
- 4. Green Chop,
- 5. Integrated Pest Management,
- 46. Limited activity during a high-wind event,
- 57. Multi-year crop,
- 8. Cessation of Night Tilling,
- 69. Planting based on soil moisture,
- 10. Precision Farming,
- 711. Reduced harvest activity,
- <u>\$12</u>. Reduced tillage system,
- 913. Tillage based on soil moisture,
- 1014. Timing of a tillage operation, or
- 15. Transgenic Crops.
- F. A commercial farmer shall implement at least one two of the following best management practices to reduce PM₁₀ emissions from noncropland:
 - 1. Access restriction;
 - 2. Aggregate cover;
 - 3. Artificial wind barrier;
 - 4. Critical area planting;
 - 5. Manure application;
 - 6. Reduce vehicle speed;
 - 7. Synthetic particulate suppressant;
 - 8. Track-out control system;
 - 9. Tree, shrub, or windbreak planting; or
 - 10. Watering.

- G. A commercial farmer shall implement at least one $\underline{\text{two}}$ of the following best management practices to reduce PM_{10} emissions from cropland:
 - 1. Artificial wind barrier;
 - 2. Cover crop;
 - 3. Cross-wind ridges;
 - 4. Cross-wind strip-cropping;
 - 5. Cross-wind vegetative strips;
 - 6. Integrated Pest Management,
 - 67. Manure application;
 - 78. Mulching;
 - 89. Multi-year crop;
 - 910. Permanent cover;
 - 1011. Planting based on soil moisture;
 - 12. Precision Farming,
 - 1113. Residue management;
 - 1214. Sequential cropping;
 - 1315. Surface roughening; or
 - 14<u>16</u>. Tree, shrub, or windbreak planting.
- H. A person may develop different practices not contained in subsections (E), (F), or (G) that reduce PM₁₀. A person may submit practices that are proven effective through onfarm demonstration trials to the Committee. The Committee may meet to review the submitted practices.
- I. A commercial farmer shall maintain a record demonstrating compliance with this Section. The record shall be provided to the Director within two business days of notice to the commercial farmer. The record shall contain:
 - 1. The name of the commercial farmer,
 - 2. The mailing address or physical address of the commercial farm, and
 - 3. The best management practices selected for tillage and harvest, noncropland, and cropland.

- J. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM₁₀ general permit.
- **K.** The Director shall document noncompliance with this Section before issuing a compliance order.
- L. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457 (I), (J), and (K).

No. 4 (A) V					
			a		
ARIZONA DEI	PARTMENT	OF ENV	IRONMEN	TAL QUALI	TY
•					
		•			
				•	



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Stephen A. Owens
Director

1110 West Washington Street • Phoenix, Arizona 85007 (602) 771-2300 • www.azdeq.gov

Maricopa Association of Governments Received

SEP 2 1 2000

September 18, 2007

Lindy Bauer, Environmental Director MAG 302 North 1st Avenue, Suite 300 Phoenix, AZ 85003

RE: Justification of Rejected PM₁₀ Control Measures

Doar Ms. Haver:

You have asked ADEQ to write a justification for any measure on the May 23, 2007, Suggested List of Measures to Reduce PM-10 Particulate Matter for which "State" was one of the parties listed in the "Potential Implementing Entity" column that was not adopted or implemented.

A table is enclosed with the justifications identified by measure. If you would like an electronic version, please contact Diane Arnst at (602) 771-2375.

Sincerely,

Nancy C. Wrona, Director Air Quality Division

NCW:DLA:MBL

Enclosure

MARICOPA COUNTY 5% REASONABLE FURTHER PROGRESS PM-10 SIP REJECTED and PARTIALLY REJECTED STATE CONTROL MEASURES JUSTIFICATION

The Maricopa Association of Governments (MAG) adopted a revised Suggested List of Measures to Reduce PM-10 Particulate Matter on May 23, 2007. The list includes a column labeled Potential Implementing Entity, and the State is listed for some of the control measures. MAG's list notes that some of the measures may not be feasible and available to the Potential Implementing Agencies. An explanation of each infeasible State control measure appears below.

MEASURE	Justification
17. Create a dedicated funding source for the	The Legislature did not create a dedicated funding
Maricopa County Air Program – This measure	source in 2007 and did not restore the In-Lieu Fee
would create a dedicated funding source for the	Fund (fees collected from new vehicles that could
County Air Program to support increased	pay a fee in lieu of undergoing vehicle inspection).
enforcement of Rule 310.01, and other air	
programs, as necessary. Example: Restore In-Lieu	
funding or some other fee to emission testing, or	: :
other approach.	
19. Require private companies (industry) to use	The Legislature instead adopted a requirement in
PM-10 certified street sweepers on paved areas	S.B. 1552 that cities and towns in Area A must
including parking lots (e.g., Clark County) –	adopt and enforce codes by March 31, 2008, that:
This measure will require paved surfaces (e.g.,	(1) require parking, maneuvering, ingress and
parking lots) owned by private companies to be	egress areas at developments other than residential
swept using PM-10 certified street sweepers.	buildings with 4 or few units to be paved with
	listed dustproof paving methods; (2) require new or
	renewed contracts for street sweeping on city
	streets to be conducted with PM-10 certified street
	sweepers. Emission reductions resulting from
	these two measures were estimated to be much
	greater than and more practically enforceable than
00 T	the rejected measure.
20. Provide incentives to shift hours of operation	The Legislature did not create monetary incentives
during stagnant conditions in November	for this control measure. The need to complete
through February – This measure would provide	certain activities in sequential order in many
incentives to postpone activities that generate dust	business operations rendered this measure less feasible than selected measures. Stakeholders were
until after 9 a.m. on days between November 1 and February 15 when ADEQ issues a High Pollution	educated through 2007 MAG Air Quality Technical
Advisory (HPA) under stagnant conditions.	Advisory Committee meetings and through 2007
Advisory (111 A) under stagnant conditions.	S.B. 1552 stakeholder meetings that peak
	wintertime inversion PM-10 concentrations occur
	before 9 A.M. and were encouraged to voluntarily
	postpone of dust-disturbing activities.
	postpone of dust-disturbing activities.

MEASURE	Justification
22. Reduce off-road vehicle use in areas with	Partially selected. The Legislature adopted a
high offroad vehicle activity (e.g., Goodyear	requirement in S.B. 1552 that requires cities and
Ordinance) – impoundment or confiscation of	towns in Area A to adopt and enforce codes by
vehicles for repeat violations This measure would	March 31, 2008, that prohibit operation of vehicles,
involve development and enforcement of	
	including offroad vehicles, on an unpaved surface
ordinances of implementation of other actions to	that is closed by a government landowner by rule
prevent or discourage off-road vehicle use in the	or by a private landowner by proper posting. The
PM-10 nonattainment area.	enforcement mechanism for repeat violations was
27 D - 1-4 - 1:	not specified in S.B. 1552.
27. Regulate and increase enforcement of ATV	Partially selected. The State Land Department
use on State land – This measure would require	already requires permits for offroad vehicle use on
the State to regulate and increase enforcement of	State land in Arizona Administrative Code R12-5-
all-terrain and off-highway vehicle use on State	533(D). A.R.S. § 37-132.B.8. provides the State
lands located in Area A.	Land Department with authority to close some
	areas to offroad vehicle use for the purpose of dust
	abatement, and a Dust Closure map appears on its
	Web site. The Legislature did not adopt H.B. 2443,
•	which would have assessed a user fee to increase
	enforcement staff and activities. S.B. 1552 requires
	renters/sellers of offroad vehicles in those portions
	of Maricopa, Pinal and Yavapai Counties in Area A
	to distribute printed dust abatement educational
	materials to their customers. The State Parks
	Department has convened a Dealer Pilot Program
	Committee to develop materials that will include
	this information. ADEQ participates in committee
24 Dunkikit warry dist wands in sluding these	meetings.
34. Prohibit new dirt roads including those	Partially selected. The Legislature adopted a
associated with lot splits – this measure would	requirement in S.B. 1552 that requires cities and
prevent the construction of new dirt roads (e.g.,	towns in Area A to adopt and enforce codes by
prohibit wildcat subdivisions; require paving of	March 31, 2008, that require parking, maneuvering,
roads before issuing a building permit) in the PM-10 nonattainment area	ingress and egress areas of 3000 square feet or
10 nonattamment area	more at developments of 4 or fewer units to be
	dustproofed. Stakeholders did not reach agreement
26 Create a fund for maring and stability	on a complete ban on new dirt roads.
36. Create a fund for paving and stabilizing in	The Legislature did not adopt this measure because
high pollution areas — This measure would create	it had no spending cap and could have resulted in a
a particulate mitigation fund to pave and stabilize	repeat of an "Alternate Fuels" initiative with no
land surfaces in and around high pollution areas.	spending cap several years earlier, which resulted
- Establish a grant program for private businesses	in the expenditure of millions of dollars with
to stabilize and pave	minimal documented environmental benefits.
- Direct fine monies from Maricopa County for	Maricopa County can address in its penalty policy
stabilization efforts.	that allows Supplemental Environmental Projects
·	that involve paving and stabilization.

MEASURE	Justification
40. Ability to assess liens on parcels to cover the costs of stabilizing them – This measure would give the County the authority to provide that the costs of stabilizing the disturbed areas on any vacant lot be assessed upon the property to which the stabilization was applied. 46. Modeling cumulative impacts – This measure	The Legislature adopted a requirement in S.B. 1552 that Maricopa, Pinal and Yavapai Counties adopt rules applicable within the Serious PM-10 nonattainment area that require 30-day advance written notice to the lot owner/owner's agent of disturbed, unpaved vacant lot and estimated stabilization cost to County if owner does not comply within 30 days; thereafter County may enter, stabilize at expense of owner, and impose a fine for violation. The Legislature did not adopt this measure.
would need further definition by Maricopa County and the Arizona Department of Environmental Quality and be subject to input to ensure that unintended consequences for temporary uses are not created.	
48. Forward to the Governor's Agricultural Best Management Practices Committee that cessation of tilling be required on high wind days and that agricultural best management practices be required in existing Area A.	Partially selected. The Legislature adopted a requirement in S.B. 1552 that expanded the regulated area for AgBMPs to include the portion of Area A in Maricopa County and increased the number of required AgBMPs from one to two from each category by December 31, 2007. The Ag BMP Committee is revising the rule to add cessation of tilling on High Pollution Advisory days as one option on the menu of tilling BMPs.
49. The Arizona State Legislature provide funding to the Arizona Department of Environmental Quality for four agriculture dust compliance officers for a total of five inspectors.	The Legislature provided funding for two additional dust compliance officers.
51. MAG annual inventory of dirt roads and estimated traffic counts to be provided to cities, MaricopaCounty, and State; MAG annual report on implementation status for each committed measure to be provided	ADOT and ADEQ follow through may be required in the future
53. The Arizona State Legislature provide funding to this region for paving dirt roads and shoulders; to local governments for enforcement of nonpermitted sources (unpaved parking, unpaved staging areas, unpaved roads; unpaved shoulders, vacant lots, and open areas). Legislature to provide funding to Maricopa County for additional inspectors for the	Local governments can adjust their priorities for revenue sharing received from the State to conduct these activities. The Legislature did not provide additional funding. On September 10, 2007, the Maricopa County Board of Supervisors approved 91 additional positions for its Air Quality Department and the related funding, including more than 50 new inspector positions for the
enforcement of Maricopa County Rule 310.	enforcement of Rule 310.

SUMMARY OF REASONED JUSTIFICATION FOR NONIMPLEMENTATION OF PARTICULATE CONTROL MEASURES DUE TO INFEASIBILITY

SUMMARY OF REASONED JUSTIFICATION FOR NONIMPLEMENTATION OF PM-10 PARTICULATE CONTROL MEASURES DUE TO INFEASIBILITY

According to EPA guidance, areas should consider technological and economic feasibility during the process of selecting air quality control measures. The feasibility analysis is also specifically discussed in the August 16, 1994 Serious Area PM-10 guidance in the Federal Register. This process resulted in commitments from the State and local governments to implement a wide variety measures primarily from the MAG Suggested List. In addition, the implementing entities also provided their reasoned justification for not implementing measures under their respective authorities which were determined by that entity to be infeasible.

It is important to note that in some cases, the reasoned justification indicates that the measure has already been implemented or has been implemented through a different approach or through other measures. The following represents the reasoned justification received for not implementing various measures. The year in which the reasoned justification was made is reflected in the left margin.

Create a dedicated funding source for the Maricopa County Air Program

- Maricopa County indicates that Senate Bill 1552 did not create a dedicated funding source for the County Air Program to support increased enforcement of Rule 310.01, and other air programs.
- Arizona Department of Environmental Quality indicates that the Legislature did not create a dedicated funding source in 2007 and did no restore the In-Lieu Fee Fund (fees collected from new vehicles that could pay a fee in lieu of undergoing vehicle inspection).

Require private companies to use PM-10 certified street sweepers on paved areas including parking lots

Arizona Department of Environmental Quality indicates that the Legislature instead adopted a requirement in S.B. 1552 that cities and towns in Area A must adopt and enforce codes by March 31, 2008, that: (1) require parking, maneuvering, ingress and egress areas at developments other than residential buildings with 4 or few units to be paved with listed dustproof paving methods; (2) require new or renewed contracts for street sweeping on city streets to be conducted with PM-10 certified street sweepers. Emission reductions resulting from these two measures were estimated to be much greater than and more practically enforceable than the rejected measure.

<u>Provide incentives to shift hours of operation during stagnant conditions to November through February</u>

Arizona Department of Environmental Quality indicates that the Legislature did not create monetary incentives for this control measure. The need to complete certain activities in sequential order in many business operations rendered this measure less feasible than selected measures. Stakeholders were educated through 2007 MAG Air Quality Technical Advisory Committee meetings and through 2007 S.B. 1552 stakeholder meetings that peak wintertime inversion PM-10 concentrations occur before 9 A.M. and were encouraged to voluntarily postpone of dust-disturbing activities.

Reduce off-road vehicle use in areas with high off-road vehicle activityimpoundment or confiscation of vehicles for repeat violations

Arizona Department of Environmental Quality indicates that this measure was partially selected. The Legislature adopted a requirement in S.B. 1552 that requires cities and towns in Area A to adopt and enforce codes by March 31, 2008, that prohibit operation of vehicles, including offroad vehicles, on an unpaved surface that is closed by a government landowner by rule or by a private landowner by proper posting. The enforcement mechanism for repeat violations was not specified in S.B. 1552.

Implement a leaf blower outreach program

Maricopa County indicates that Senate Bill 1552 directed the Arizona Department of Environmental Quality, not Maricopa County, to establish a leaf blower training program and produce printed materials to educate and inform the user. Maricopa will include leaf blower outreach materials with Maricopa County's outreach materials, if requested to do so by ADEQ.

Regulate and increase enforcement of ATV use on State Land

Arizona Department of Environmental Quality indicates that this measure was partially selected. The State Land Department already requires permits for offroad vehicle use on State land in Arizona Administrative Code R12-5-533(D). A.R.S. § 37-132.B.8. provides the State Land Department with authority to close some areas to offroad vehicle use for the purpose of dust abatement, and a Dust Closure map appears on its Web site. The Legislature did not adopt H.B. 2443, which would have assessed a user fee to increase enforcement staff and activities. S.B. 1552 requires renters/sellers of offroad vehicles in those portions of Maricopa, Pinal and Yavapai Counties in Area A to distribute printed dust abatement educational materials to their customers. The State Parks Department has convened a Dealer Pilot Program Committee to develop materials that will include this information. ADEQ participates in committee meetings.

Retrofit onroad diesel engines with particulate filters

Maricopa County indicates that no funding was appropriated by the Arizona Legislature to establish a program with financial incentives to encourage voluntary retrofit for onroad diesel vehicles with particulate filters and oxidation catalysts. Maricopa County's existing Voluntary Vehicle Repair and Retrofit Program (A.R.S. § 49-474.03) limits participation to vehicles at least twelve years old and that fail an emissions test. In addition, repair or retrofit costs are limited to half of the costs up to \$1,000 for diesel vehicles. The average cost to retrofit onroad diesel engines exceeds the \$1,000 available under the existing program. Sierra Research estimated retrofit costs of diesel particulate filters at \$11,875 per vehicle and the cost of diesel oxidation catalysts at \$2,375 per vehicle. Further, Maricopa County does not have statutory authority to assess fees to onroad mobile sources, therefore, limiting its ability to generate funding for voluntary retrofit for onroad diesel vehicles.

Pave or stabilize existing unpaved parking lots-strengthen enforcement

City of Apache Junction indicates that implementation of this measure within the City of Apache Junction at this time is infeasible. Two-thirds of the developed area of Apache Junction is equestrian and "rural" in nature where many dirt roads, dirt parking lots and driveways exist-encompassing an eleven square mile area. The City of Apache Junction views all its other commitments as more important with much higher chances of success in implementation and impact.

Pave or stabilize existing public dirt roads and alleys

- 2007 City of Avondale does not have any unpaved public dirt roads or unpaved alleys which allow motor vehicle access.
- Town of Paradise Valley does not have unpaved public dirt roads or unpaved public alleys which allow motor vehicle access.

Limit speeds to 15 miles per hour on high traffic dirt roads

- 2007 City of Apache Junction does not find this measure feasible to implement for the following reasons:
 - 1. The paving of all dedicated dirt roads in the City of Apache Junction will be completed in 2009.
 - 2. The need for "Reasonable enforcement" as espoused in the Manual on Uniform Traffic Control Devices would be beyond the City's resources.

- 2007 City of Avondale does not have unpaved public dirt roads.
- 2007 Town of Fountain Hills does not have unpaved public dirt roads.
- Town of Gilbert does not currently have any high-traffic dirt roads in the public road inventory.

 Town of Gilbert does not currently have any high-traffic dirt roads in the
- City of Glendale indicates that the city does not currently have any public city-owned dirt roads. The Transportation Department and Field Operations Department will monitor the situation and document any change in the city's dirt road inventory. The city will prepare and submit progress reports, when requested by outside agencies.
- City of Mesa indicates that the 15-MPH speed limits are not currently used by the City of Mesa because the City of Mesa has less than 1 mile of unpaved roads and none of these roads have an estimated traffic volume of more than 50 trips per day. The City of Mesa Transportation Department is responsible for establishing speed limits on City streets.
- 2007 Town of Paradise Valley does not have unpaved public dirt roads.
- Town of Queen Creek indicates that there are no existing dirt roads with traffic in excess of 50.
- City of Surprise indicates that the City does not have any unimproved, dedicated dirt roads within its jurisdiction which meet this criterion.
- City of Tempe indicates that this measure requires 15 mph speed limit signs to be posted on dirt roads in the PM-10 nonattainment area that carry high traffic. The City's Public Works and Development Services departments are responsible for implementing this measure. There are no roads or plans for new roads inside the Tempe city limits that meet the conditions for implementing this measure. Maricopa County and ADEQ have the authority to enforce measure identified in the nonattainment area plans. The City will provide progress reports on measure implementation to the MSESD, ADEQ or MAG upon request.
- 2007 City of Tolleson indicates that there are no existing dirt roads or alleys with traffic in excess of 50 vehicles per day.

Prohibit new dirt roads including those associated with lot splits

Maricopa County indicates that Maricopa County does not have statutory authority to prohibit dirt roads associated with lot splits in the PM-10 nonattainment area.

Arizona Department of Environmental Quality indicates that this measure was partially selected. The Legislature adopted a requirement in S.B. 1552 that requires cities and towns in Area A to adopt and enforce codes by March 31, 2008, that require parking, maneuvering, ingress and egress areas of 3000 square feet or more at developments of 4 or fewer units to be dustproofed. Stakeholders did not reach agreement on a complete ban on new dirt roads.

Pave or stabilize unpaved shoulders

Town of Paradise Valley indicates that all major and minor arterial streets in Paradise Valley have stabilized shoulders.

Create a fund for paving and stabilizing in high pollution areas

Arizona Department of Environmental Quality indicates that the Legislature did not adopt this measure because it had no spending cap and could have resulted in a repeat of an "Alternative Fuels" initiative with no spending cap several years earlier, which resulted in the expenditure of millions of dollars with minimal documented environmental benefits. Maricopa County can address this in its penalty policy that allows Supplemental Environmental Projects that involve paving and stabilization.

Ability to assess liens on parcels to cover the costs of stabilizing them

Arizona Department of Environmental Quality indicates that the Legislature adopted a requirement in S.B. 1552 that Maricopa, Pinal and Yavapai Counties adopt rules applicable within the Serious PM-10 nonattainment area that require 30-day advance written notice to the lot owner/owner's agent of disturbed, unpaved vacant lot and estimated stabilization cost to the County if the owner does not comply within 30 days; thereafter the County may enter, stabilize at expense of owner, and impose a fine for violation.

Modeling cumulative impacts-This measure would need further definition by Maricopa County and the Arizona Department of Environmental Quality and be subject to input to ensure that unintended consequences for temporary uses are not created

2007 Arizona Department of Environmental Quality indicates that the Legislature did not adopt this measure.

Forward to the Governor's Agricultural Best Management Practices Committee that cessation of tilling be required on high wind days and that agricultural best management practices be required in existing Area A

2007 ■ Arizona Department of Environmental Quality indicates that this measure was partially selected. The Legislature adopted a requirement in S.B. 1552

that expanded the regulated area for AgBMPs to include the portion of Area A in Maricopa County and increased the number of required AgBMPs from one to two from each category by December 31, 2007. The Ag BMP Committee is revising the rule to add cessation of tilling on High Pollution Advisory days as one option on the menu of tilling BMPs.

The Arizona State Legislature provide funding to the Arizona Department of Environmental Quality for four agriculture dust compliance officers for a total of five inspectors

Arizona Department of Environmental Quality indicates that the Legislature provided funding for two additional dust compliance officers.

<u>Support Maricopa County in receiving statutory authority to prohibit new dirt roads including those associated with lot splits</u>

Maricopa County indicates that Maricopa County did not receive statutory authority in Senate Bill 1552 to prohibit new dirt roads associated with lot splits. This continues to be a priority for Maricopa County and we will continue to pursue statutory authority.

Each year the Maricopa Association of Governments conduct an inventory of dirt roads and estimated traffic counts by jurisdiction to measure progress in eliminating dirt roads. Also each year, MAG would issue a report on the status of the implementation of the committed measures for this region by the cities, towns, Maricopa County and State. The reports would be made available to the Governor's Office, Legislature, the Arizona Department of Environmental Quality and the Environmental Protection Agency

Arizona Department of Environmental Quality indicates that ADOT and ADEQ follow through may be required in the future.

The Arizona State Legislature provide funding to this region for paving dirt roads and shoulders and provide a funding source to local governments for the enforcement of nonpermitted sources, such as unpaved parking, unpaved vehicle staging areas, unpaved roads, unpaved shoulders, vacant lots and open areas. Also to provide funding to Maricopa County for additional inspectors for the enforcement of Maricopa County Rule 310

Maricopa County indicates that Senate Bill 1552 did not provide for funding for paving dirt roads and shoulders nor did they provide a funding source to local governments for the enforcement of nonpermitted sources, such as unpaved parking, unpaved vehicle staging areas, unpaved roads, unpaved shoulders, vacant lots and open areas or to Maricopa County for additional inspectors for the enforcement of Maricopa County Rule 310.

Arizona Department of Environmental Quality indicates that local governments can adjust their priorities for revenue sharing received from the State to conducts these activities. The Legislature did not provide additional funding. On September 10, 2007, the Maricopa County Board of Supervisors approved 91 additional positions for its Air Quality Department and the related funding, including more than 50 new inspector positions for the enforcement of Rule 310.

Maricopa County Rule 310 and 316 be amended to provide that larger construction and mineral production facilities in excess of 50 acres be required to install two or more PM-10 samplers certified by the County. These samplers will be operated simultaneously for five consecutive hours during operating hours for the site of facility. The samplers will not meet EPA approved methods for ambient air quality monitoring

2007 ■ Maricopa County indicates that an ambient monitor installed at a site's property line records the dust released into the air by site activities that reach the monitor. By its nature the ambient monitor will only trigger a reaction when elevated levels of PM-10 are recorded at the monitor. EPA has stated that RACM and BACM measures must be proactive to prevent the dust release not reactive. Furthermore, Senate Bill 1552 and Maricopa County Rules 310 and 316 will require onsite monitoring of dust control measures by dust control coordinators. These coordinators are required to be onsite when construction activities are occurring and to inspect all areas of the site periodically to ensure that dust control or stabilization measures are in place and effective. Ambient monitoring at the property line is not as comprehensive as the site-wide monitoring and inspections required of the dust control coordinators to prevent the elevated levels of dust from reaching the property line. Therefore, Maricopa County will not implement a requirement for ambient monitors because the monitors provide a more limited, redundant monitoring system that targets the same emissions that the dust control coordinator requirement and are reactive in nature.